

Sims, Wyteria v. Wingate Management Company, LLC

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 WYTERIA SIMS,
5 INDIVIDUALLY, AND
6 O/B/O THE ESTATE OF
7 MARCUS SIMS, CIVIL ACTION FILE NO.
8 Plaintiff, 1:22-cv-01696-VMC

9 vs.
10 WINGATE MANAGEMENT
11 COMPANY, LLC,
12 Defendant.

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF GEORGIA
16 ATLANTA DIVISION

17 KEIONTAY DAVIS,
18 Plaintiff,
19 vs. CIVIL ACTION FILE NO.
20 WINGATE MANAGEMENT 1:22-cv-01692-VMC
21 COMPANY, LLC,
22 Defendant.

23
24 IN THE UNITED STATES DISTRICT COURT
25 FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KENNETH LONG,
Plaintiff,
vs. CIVIL ACTION FILE NO.
WINGATE MANAGEMENT 1:22-cv-01693-VMC
COMPANY, LLC,
Defendant.

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1 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA 2 ATLANTA DIVISION 3 DEMARIO NEWTON, Plaintiff, 4 vs. CIVIL ACTION FILE NO. 5 WINGATE MANAGEMENT 1:22-cv-01694-VMC 6 COMPANY, LLC, Defendant. 7 8 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA 9 ATLANTA DIVISION 10 RICKY PHILLIPS, Plaintiff, 11 vs. CIVIL ACTION FILE NO. 12 WINGATE MANAGEMENT 1:22-cv-01695-VMC 13 COMPANY, LLC, Defendant. 14 - - - 15 Videotaped Deposition of JANE KAREN GRAY, Ph.D., 16 Taken by Jackson A. Dial, 17 Before Jennifer D. Hamon, Certified Court Reporter, 18 At the Law Offices of Finch McCranie LLP, 19 Atlanta, Georgia, 20 On Tuesday, July 16, 2024, Beginning at 10:07 a.m. and ending at 12:40 p.m. 21 22 - - - 23 24 25	1 INDEX TO PROCEEDINGS 2 EXAMINATION INDEX 3 JANE KAREN GRAY, PH.D. 4 Examination by Mr. Dial 6 5 Certificate Page 131 6 Errata Sheet 133 7 8 EXHIBIT INDEX 9 Defendant's Exhibits 10 Exhibit 1 Notice of Intent to Take the 16 Videotaped Deposition of Jane Gray 11 Exhibit 2 Curriculum Vitae 10 12 Exhibit 3 Cases in which Jane Gray has provided 33 13 testimony 2018 through February 21, 2024 14 Exhibit 4 Invoices 24 15 Exhibit 5 Final Report 41 16 17 (Original Exhibits 1 through 5 have been attached 18 to the original transcript.) 19 20 (End of Index) 21 22 23 24 25
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1 APPEARANCES OF COUNSEL 2 For the Plaintiffs: 3 DAVID H. BOUCHARD GABRIEL KNISELY 4 Finch McCranie LLP Suite 2500 5 229 Peachtree Street NE Atlanta, GA 30303 6 404.658.9070 david@finchmccranie.com 7 gabe@finchmccranie.com 8 For the Defendant: 9 JACKSON A. DIAL 10 Weinberg Wheeler Hudgins Gunn & Dial LLC Suite 2400 11 3344 Peachtree Road NE Atlanta, Georgia 30326 12 404.876.2700 jdial@wwhgd.com 13 LEE CLAYTON (Via Zoom) 14 LAUREN D. WOODRICK (Via Zoom) Swift Currie McGhee & Hiers LLP 15 Suite 800 1420 Peachtree Street NE 16 Atlanta, GA 30309 404.874.8800 17 lee.clayton@swiftcurrie.com 18 lauren.woodrick@swiftcurrie.com 19 ALSO PRESENT: 20 Eric Lucas, Videographer 21 22 23 24 25	1 July 16, 2024 2 10:07 a.m. 3 (Whereupon the reporter provided a written 4 disclosure to all counsel pursuant to 5 Article 8.B. of the Rules and Regulations of 6 the Board of Court Reporting.) 7 THE VIDEOGRAPHER: Today's date is 8 July 16, 2024, and the time is approximately 9 10:07 a.m. This will be the videotaped 10 deposition of Jane Gray. Would counsel present 11 and on the Zoom please identify themselves for 12 the record. 13 MR. BOUCHARD: Good morning. David 14 Bouchard on behalf of the Plaintiffs, Keiontay 15 Davis, Kenneth Long, Demario Newton, Ricky 16 Phillips, and Wyteria Sims, in the five pending 17 cases before Judge Calvert from Finch McCranie in 18 Atlanta, Georgia, joined today by my colleague 19 Gabriel Knisely. 20 MR. DIAL: And this is Jad Dial on 21 behalf of Defendant Wingate Management Company 22 LLC. 23 THE VIDEOGRAPHER: Would the court 24 reporter please swear in the witness. Thank you. 25 THE COURT REPORTER: Ms. Woodrick, do

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<p style="text-align: right;">Page 6</p> <p>1 you want to identify yourself?</p> <p>2 MS. WOODRICK: I do. Lauren Woodrick</p> <p>3 and Lee Clayton also on behalf of Wingate.</p> <p>4 (Whereupon the Deponent was duly sworn.)</p> <p>5 MR. DIAL: All right. This will be</p> <p>6 the deposition of Dr. Jane Gray taken pursuant to</p> <p>7 notice and agreement of counsel on behalf of the</p> <p>8 Defendant, Wingate Management Company, in each of</p> <p>9 the five above-styled cases which are pending in</p> <p>10 the Northern District of Georgia, Atlanta</p> <p>11 Division.</p> <p>12 Like I said, the deposition's being</p> <p>13 taken pursuant to notice and agreement of</p> <p>14 counsel. We'll reserve all objections except for</p> <p>15 form of the question and responsiveness of the</p> <p>16 answer until time of trial or other use of the</p> <p>17 deposition if that's agreeable.</p> <p>18 MR. BOUCHARD: Agreeable.</p> <p>19 JANE KAREN GRAY, Ph.D.,</p> <p>20 being first duly sworn, was examined and</p> <p>21 testified as follows:</p> <p>22 EXAMINATION</p> <p>23 BY MR. DIAL:</p> <p>24 Q All right. And, Dr. Gray, do you want</p> <p>25 to read and sign your deposition?</p>	<p style="text-align: right;">Page 8</p> <p>1 A I currently live at 10199 Hyland Run</p> <p>2 in Plain City, Ohio.</p> <p>3 Q Did you fly down here yesterday?</p> <p>4 A I did.</p> <p>5 Q Okay. How long have you lived in</p> <p>6 Ohio?</p> <p>7 A 50 years.</p> <p>8 Q Okay. Do you get down to Atlanta</p> <p>9 frequently?</p> <p>10 A I do.</p> <p>11 Q Mostly for what?</p> <p>12 A For work.</p> <p>13 Q For work? Okay.</p> <p>14 Have you served as an expert in other</p> <p>15 cases here in the Atlanta area?</p> <p>16 A I have.</p> <p>17 Q Okay. Approximately how many?</p> <p>18 A I'd have to refer to my CV.</p> <p>19 Q Okay. I mean, has it been fairly</p> <p>20 routine over the years that you have a case or</p> <p>21 two down in this -- this area?</p> <p>22 A Yes, especially over I'd say the past</p> <p>23 five years.</p> <p>24 Q Okay. What attorneys have you worked</p> <p>25 with in the Atlanta area or in Georgia over the</p>
<p style="text-align: right;">Page 7</p> <p>1 A Yes, please.</p> <p>2 Q All right. Well, my name's Jad Dial.</p> <p>3 I represent the Defendant in these cases. My</p> <p>4 understanding is you've been hired by the</p> <p>5 Plaintiffs in these cases as an expert witness.</p> <p>6 Is that right?</p> <p>7 A That's correct.</p> <p>8 Q Okay. I assume -- or I know you've</p> <p>9 given many depositions before, so you kind of</p> <p>10 know how it works. Just try and let me finish my</p> <p>11 question before responding. I'll do the same</p> <p>12 with respect to your answers.</p> <p>13 If you don't understand any of my</p> <p>14 questions, let me know. I can always</p> <p>15 repeat/rephrase them. Let me know when you need</p> <p>16 a break. I'll try to stop every -- I don't</p> <p>17 know -- hour or so. I don't think we'll be here</p> <p>18 all day, but it might be a few hours.</p> <p>19 Does that sound fair?</p> <p>20 A Fair.</p> <p>21 Q All right. All right. Dr. Gray,</p> <p>22 would you state your name for the record.</p> <p>23 A Yes. Jane Karen Gray.</p> <p>24 Q All right, Dr. Gray. And where are</p> <p>25 you from, or where do you live currently?</p>	<p style="text-align: right;">Page 9</p> <p>1 last five or so years?</p> <p>2 A Again, I have to refer to my -- my CV.</p> <p>3 Kaufman law firm I see, Morgan and Morgan. Those</p> <p>4 were in '23. Stewart Trial Attorneys in '23 and</p> <p>5 Morgan & Morgan.</p> <p>6 Q I saw Wilson Elser on here.</p> <p>7 A Oh, I'm just -- I've got a second --</p> <p>8 Q What's the Wilson Elser case about?</p> <p>9 A What year, please?</p> <p>10 Q 2024.</p> <p>11 A Okay. Yes. That's a -- a defense</p> <p>12 case in Atlanta. I cannot describe it at this</p> <p>13 point.</p> <p>14 Q Okay. You don't remember what it's --</p> <p>15 A Not at this point.</p> <p>16 Q -- about?</p> <p>17 Do you remember the lawyers that</p> <p>18 you're working with over there, know the names?</p> <p>19 A I could if I were able access my</p> <p>20 Dropbox, but --</p> <p>21 Q No worries.</p> <p>22 A -- I have a lot of cases, so I don't</p> <p>23 want to say if I'm not certain.</p> <p>24 Q And most of the cases that you testify</p> <p>25 in, are they premises liability cases?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A They are. Most of them are.</p> <p>2 Q And in the premises liability world,</p> <p>3 are they what we would refer to as negligent</p> <p>4 security cases?</p> <p>5 A Correct.</p> <p>6 Q Okay. You're not doing trip and falls</p> <p>7 and slip --</p> <p>8 A No.</p> <p>9 Q -- and falls and stuff like that?</p> <p>10 Okay.</p> <p>11 (Whereupon a document was identified</p> <p>12 as Defendant's Exhibit 2.)</p> <p>13 BY MR. DIAL:</p> <p>14 So give me a little bit of background.</p> <p>15 I -- I marked as Exhibit 2 your CV. And we don't</p> <p>16 have to run through the entire thing. But did</p> <p>17 you grow up in Ohio?</p> <p>18 A I did.</p> <p>19 Q Okay. And you went to Ohio State for</p> <p>20 undergrad?</p> <p>21 A Correct.</p> <p>22 Q All right. And your major was</p> <p>23 sociology?</p> <p>24 A No. Undergrad -- my first major, my</p> <p>25 bachelor's, is in zoology --</p>	<p style="text-align: right;">Page 12</p> <p>1 one-year program, but an MPA was a two-year</p> <p>2 program, professional degree.</p> <p>3 Q So what did you do between -- well,</p> <p>4 let me ask you this: When did your Ph.D. program</p> <p>5 begin, what year?</p> <p>6 A It began I believe in eighty -- '81 or</p> <p>7 '82.</p> <p>8 Q Okay. Did you work anywhere between</p> <p>9 getting your MPA and going to school again for</p> <p>10 your Ph.D.?</p> <p>11 A No.</p> <p>12 Q Okay. Was -- the Ph.D. program, was</p> <p>13 that six or seven years?</p> <p>14 A Right. Well, what happens is you have</p> <p>15 to take courses, and then you take your general</p> <p>16 exams. Then you're a Ph.D. candidate, and then</p> <p>17 you write a dissertation, and you have seven</p> <p>18 years to finish the dissertation.</p> <p>19 Q Okay. What do you consider yourself</p> <p>20 an expert in?</p> <p>21 A Criminal behavior, foreseeability of</p> <p>22 crime or -- and foreseeability in legal terms.</p> <p>23 But in criminology terms, it's crime prediction,</p> <p>24 that type of thing.</p> <p>25 Q Do you consider yourself an expert in</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Just kidding. Yeah. I'm going the</p> <p>2 wrong direction.</p> <p>3 A -- minor in chemistry.</p> <p>4 Q Zoology, did you end up doing anything</p> <p>5 with that?</p> <p>6 A No, I did not.</p> <p>7 Q All right. When did you decide to get</p> <p>8 into the either criminology or security world?</p> <p>9 A Right. Well, if you go through all my</p> <p>10 degrees, my bachelor's, my MPA, and my Ph.D.,</p> <p>11 there's a common thread of behavior. And, for</p> <p>12 example, in zoology, I specialized in animal</p> <p>13 behavior. MPA, I specialized in labor and human</p> <p>14 relations.</p> <p>15 And then at the Ph.D. level, I</p> <p>16 specialized in criminology or criminal behavior,</p> <p>17 and I -- so I got interested in criminology</p> <p>18 during my Ph.D. pursuit.</p> <p>19 Q Okay. And so after undergrad, it</p> <p>20 looks like you got your MPA two years later. Did</p> <p>21 you go straight into that program?</p> <p>22 A Yes, I did.</p> <p>23 Q Okay. And then how long was that</p> <p>24 program?</p> <p>25 A It's a two-year program. An MA was a</p>	<p style="text-align: right;">Page 13</p> <p>1 property management?</p> <p>2 A No.</p> <p>3 Q Have you ever managed a multifamily</p> <p>4 housing apartment complex?</p> <p>5 A No, I haven't.</p> <p>6 Q Have you ever drafted a security plan</p> <p>7 for an apartment complex?</p> <p>8 A No, I have not.</p> <p>9 Q So when you got your Ph.D., can you</p> <p>10 kind of run me through your -- your work history</p> <p>11 a little bit.</p> <p>12 A Well, when I got my Ph.D., I began</p> <p>13 working at Florida State University in their</p> <p>14 criminology program. A year into that, I got</p> <p>15 married, so I moved back to Ohio and taught at</p> <p>16 Capital University where I ran the criminology</p> <p>17 and criminal justice program.</p> <p>18 Then I was promoted to chair of the</p> <p>19 department of behavioral sciences there, and then</p> <p>20 I moved over to Ohio State University and worked</p> <p>21 there until I retired in 2015. And then I just</p> <p>22 went full-time into expert witness testimony.</p> <p>23 Q Okay. So you've never worked at an</p> <p>24 apartment complex as --</p> <p>25 A No, I have not.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q -- a manager?</p> <p>2 Okay. And have you ever drafted any</p> <p>3 leases or house rules or anything like that for</p> <p>4 an apartment complex?</p> <p>5 A Not for an apartment complex. I've</p> <p>6 owned properties myself, but not in a</p> <p>7 professional manner.</p> <p>8 Q What types of properties have you</p> <p>9 owned?</p> <p>10 A I have a six-family building and then</p> <p>11 some single-family houses.</p> <p>12 Q Okay. So you have a six-family --</p> <p>13 A I do.</p> <p>14 Q -- building that you rented out to</p> <p>15 people?</p> <p>16 A Yes.</p> <p>17 Q Did you have some house rules there?</p> <p>18 A Yes.</p> <p>19 Q What were those rules, if you can</p> <p>20 remember any of them?</p> <p>21 A Well, I don't have a list of them in</p> <p>22 front of me. That was quite a few years ago.</p> <p>23 But I would conduct background checks on all of</p> <p>24 them, and I would continue to conduct them just</p> <p>25 to make sure that they were not violating the law</p>	<p style="text-align: right;">Page 16</p> <p>1 A That's correct.</p> <p>2 Q Your specialty is in criminal behavior</p> <p>3 and predictability of crimes?</p> <p>4 A That's correct.</p> <p>5 Q Okay. Have you ever worked as a</p> <p>6 security consultant for a commercial or</p> <p>7 residential location?</p> <p>8 A No.</p> <p>9 Q Okay. Other than in the -- I know</p> <p>10 here today you're serving as an expert witness,</p> <p>11 but -- so you said no to that?</p> <p>12 A Correct.</p> <p>13 Q Okay. Did you bring anything with you</p> <p>14 today?</p> <p>15 A No. I just have the exhibits here.</p> <p>16 (Whereupon a document was identified</p> <p>17 as Defendant's Exhibit 1.)</p> <p>18 BY MR. DIAL:</p> <p>19 Q Okay. The notice which is marked as</p> <p>20 Exhibit 1 asked for certain things to be</p> <p>21 produced. Have those items already been produced</p> <p>22 to us or given to your lawyer -- not your lawyer,</p> <p>23 but --</p> <p>24 A Yes.</p> <p>25 Q -- lawyer who hired you?</p>
<p style="text-align: right;">Page 15</p> <p>1 or had a criminal background.</p> <p>2 There were rules about smoking. No</p> <p>3 smoking. There were rules about fire safety.</p> <p>4 There were rules about criminal associates.</p> <p>5 There were rules about conducting any criminal</p> <p>6 activities at the property.</p> <p>7 And I had 24-hour -- I had to give</p> <p>8 them 24-hour notice, but I could enter any one</p> <p>9 that I suspected was conducting criminal</p> <p>10 activities. But fortunately I did not have those</p> <p>11 problems.</p> <p>12 Q Right.</p> <p>13 Okay. So where was this six-family</p> <p>14 building located?</p> <p>15 A Hilliard, Ohio.</p> <p>16 Q What year did you own that building?</p> <p>17 A I bought that building in 2009, and I</p> <p>18 sold it in 2021.</p> <p>19 Q So other than that six-family</p> <p>20 building, you haven't participated in drafting</p> <p>21 any rules, policies, procedures for a multifamily</p> <p>22 housing complex; is that right?</p> <p>23 A That's correct.</p> <p>24 Q And you're not a low income housing</p> <p>25 expert; right?</p>	<p style="text-align: right;">Page 17</p> <p>1 A Yes.</p> <p>2 Q All right. Okay. When were you first</p> <p>3 contacted in this case or about this case?</p> <p>4 A It was in 2023. I cannot remember the</p> <p>5 date. Sorry. I can't remember the date.</p> <p>6 Q No worries.</p> <p>7 Do you remember who contacted you?</p> <p>8 A David Bouchard.</p> <p>9 Q What do you recall about that initial</p> <p>10 conversation?</p> <p>11 A Just I always ask my clients to</p> <p>12 describe the event for me, and then I describe my</p> <p>13 methodology to them. And then I send off my CV</p> <p>14 and fee schedule, and they make a decision</p> <p>15 whether to retain me or not.</p> <p>16 Q What is your methodology?</p> <p>17 A Well, there's two parts to it.</p> <p>18 There's a quantitative methodology and a</p> <p>19 qualitative methodology. The quantitative</p> <p>20 methodology requires that I receive three years</p> <p>21 of crime data, three years preceding the date of</p> <p>22 the incident, for a half mile radius around the</p> <p>23 subject location.</p> <p>24 So I ask for 911 calls first. Then we</p> <p>25 reduce those data to only violent crimes because</p>

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<p style="text-align: right;">Page 18</p> <p>1 only violent crimes predict future violent 2 crimes. You know, shoplifting, theft is not 3 going to predict a rape or a murder. 4 After that, we -- after they're 5 reduced, we send that back to the police and ask 6 for incident reports for each and every one of 7 these that were dispatched as a violent crime so 8 that we can confirm that it was actually a 9 violent crime and assessed as that by the 10 responding officer. 11 Once we get that material, then we can 12 plot it on our crime map to look at the 13 distribution of crime in the area and create a 14 heat map. And that gives us a quantitative 15 indicator of how much crime is taking place in 16 that area on a regular basis. 17 Then the qualitative part of the 18 methodology requires that I come to the site. 19 And I drive through the half mile radius, and I 20 view the site both in daytime and nighttime if 21 the -- if the event occurred at night. 22 And I view it from the perspective of 23 what I was taught by my inmates when I 24 researched -- I talked to over 600 of them on 25 what they look for in the environment that might</p>	<p style="text-align: right;">Page 20</p> <p>1 related to an incident, but maybe they -- they 2 saw bits and pieces, but they don't have all of 3 the facts; right? 4 A That's correct. 5 Q Okay. And so you go get the reports 6 related to the 911 calls; is that right? 7 A We do. And then we excise certain 8 things. For example, domestic violence, we do 9 not count because we're looking at strangers -- 10 stranger violence. Domestic violence is a 11 different animal altogether, much more emotional. 12 And we exclude anything that might not 13 qualify as a crime against a person, actually 14 laying hands on people or shooting or -- with a 15 weapon. 16 Q All right. So when you get these 17 reports and you parse out the person-on-person 18 crimes, do you do anything further to investigate 19 those incidents, or do you take what's written on 20 the report as what happened? 21 A Yes. We take -- from the police 22 department? Yes. We rely on police information 23 that's contained in the incident report -- 24 Q Okay. 25 A -- because that tells us two things.</p>
<p style="text-align: right;">Page 19</p> <p>1 embolden them to commit a crime there that might 2 consider -- that might make them think this is an 3 attractive target and what might displace the 4 crime to another location that they deem less 5 risky. 6 Q In the quantitative part of your 7 methodology, you mentioned you get 911 calls 8 going back three years for a half mile radius; is 9 that right? 10 A That's correct. 11 Q Now, you agree that 911 calls or a 12 call log showing 911 calls is not overly 13 reliable. I mean, there's a lot of information 14 that's missing when you just get the -- the 911 15 calls; right? 16 A Right, which is why we ask for the 17 incident -- 18 Q Right. 19 A -- reports. 20 Q Because people can make 911 calls, 21 and, I mean, it could be -- one, it could be a 22 hoax; right? 23 A Right. 24 Q Okay. And, two, someone could call 25 911 who doesn't have all of the information</p>	<p style="text-align: right;">Page 21</p> <p>1 It tells us, number one, a crime actually did 2 occur. I like to use the example of oftentimes 3 somebody will call and say, oh, my God, a woman's 4 being beaten behind my house; I can hear her. 5 And the cops get there, and it's a cat 6 fight. 7 Q Right. 8 A It's two cats screaming. 9 So we make sure that we don't have 10 anything like that in our data that we use to 11 plot the crime maps. And then of course, yes, we 12 rely on what the police say happened, and then we 13 get a description of what happened. 14 If -- sometimes in some states, 15 they'll call an assault an act where somebody is 16 just threatening somebody else. We don't include 17 that in our crime analysis. So we are very 18 conservative in what we include. 19 Q Okay. Do you -- when you get these 20 reports, do you ever try and speak to the 21 officers who drafted the report? 22 A We don't try to speak to them. But we 23 request supplemental reports. If it's unclear, 24 then we'll request supplemental reports. We'll 25 ask for more information so we can make a</p>

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<p style="text-align: right;">Page 22</p> <p>1 decision on whether we include that data or not.</p> <p>2 Q Do you ever speak to the witnesses who</p> <p>3 are mentioned in these reports?</p> <p>4 A No.</p> <p>5 Q Do you ever do any further</p> <p>6 investigation to determine whether a perpetrator</p> <p>7 that may have been arrested in relation to an</p> <p>8 incident is ultimately prosecuted --</p> <p>9 A No.</p> <p>10 Q -- or convicted?</p> <p>11 A No.</p> <p>12 Q Okay. So if there's a report and it</p> <p>13 says that, you know, John Smith was arrested for</p> <p>14 aggravated assault but then ultimately John Smith</p> <p>15 is not either prosecuted or convicted, does that</p> <p>16 still qualify as a crime that you may consider</p> <p>17 when doing your analysis?</p> <p>18 A Yes, because a crime occurred. We're</p> <p>19 just not sure who did it in this case. John</p> <p>20 Smith apparently didn't commit it, but it was</p> <p>21 reported, and a police officer felt that it was a</p> <p>22 legitimate crime.</p> <p>23 Q But what if nobody's ever -- what if</p> <p>24 they arrest John Smith and John Smith goes to</p> <p>25 trial and he's acquitted? I mean, does that --</p>	<p style="text-align: right;">Page 24</p> <p>1 perpetrators that are referenced in these</p> <p>2 reports?</p> <p>3 A Sometimes I do speak with the</p> <p>4 perpetrators.</p> <p>5 Q How often do you do that?</p> <p>6 A When they are in prison and they agree</p> <p>7 to an interview and my client wants me to</p> <p>8 interview them, I will do that.</p> <p>9 Q Have you spoken to any of the</p> <p>10 Plaintiffs in this case?</p> <p>11 A I have not.</p> <p>12 Q Did you read their depositions?</p> <p>13 A Yes, I did.</p> <p>14 Q Okay. I saw they were listed in your</p> <p>15 materials reviewed, but I didn't see any time</p> <p>16 billed for reading their depositions. But you're</p> <p>17 saying that did occur?</p> <p>18 A Yes.</p> <p>19 Q Okay.</p> <p>20 THE WITNESS: Maybe you owe me money,</p> <p>21 David.</p> <p>22 (Whereupon a document was identified</p> <p>23 as Defendant's Exhibit 4.)</p> <p>24 BY MR. DIAL:</p> <p>25 Q I just didn't see it -- I didn't see</p>
<p style="text-align: right;">Page 23</p> <p>1 would that qualify as a crime having been</p> <p>2 committed?</p> <p>3 A No, because I'm looking at crime, not</p> <p>4 perpetrators.</p> <p>5 Q Okay. Let's say John Smith was the</p> <p>6 only person that was ever suspected -- there</p> <p>7 wasn't anybody else who committed the --</p> <p>8 committed the act -- but he was acquitted at</p> <p>9 trial by a jury. Would that then still qualify</p> <p>10 as a -- as a criminal incident?</p> <p>11 A Well, that's a hypothetical, and in</p> <p>12 that case, yes. As I said, we only rely on what</p> <p>13 the police tell us. In this case, Atlanta</p> <p>14 police. If they felt that an aggravated assault</p> <p>15 crime took place and they arrested an individual</p> <p>16 and they handed the guy over to prosecution,</p> <p>17 yeah, we count that.</p> <p>18 Q Okay. So it doesn't matter ultimately</p> <p>19 for your purposes of your analysis whether</p> <p>20 somebody's ultimately convicted of the crime.</p> <p>21 A No. I'm looking at crime reported as</p> <p>22 defined by Atlanta Police Department.</p> <p>23 Q Okay. All right. So you said you</p> <p>24 don't typically speak to the cops or witnesses.</p> <p>25 And I assume you also don't speak to the alleged</p>	<p style="text-align: right;">Page 25</p> <p>1 it listed in your -- what do you call it -- the</p> <p>2 invoices. Do you recall when you read those</p> <p>3 depositions?</p> <p>4 A No. It's been over a year. I have</p> <p>5 many cases.</p> <p>6 Q Okay. All right. All right. So when</p> <p>7 did you start doing consulting work again? You</p> <p>8 probably said this a minute ago, but I don't</p> <p>9 recall.</p> <p>10 A Consulting in this area?</p> <p>11 Q Yeah.</p> <p>12 A 1990, I believe.</p> <p>13 Q What consulting work did you do prior</p> <p>14 to the premises liability/criminal --</p> <p>15 A If you refer to my --</p> <p>16 Q -- behavior world?</p> <p>17 A -- CV, you'll see that I was doing</p> <p>18 some consulting work. The first one I ever had</p> <p>19 was Three Mile Island nuclear disaster. That's</p> <p>20 when I was field director of the disaster</p> <p>21 research center at Ohio State University when I</p> <p>22 was working on my Ph.D.</p> <p>23 And then I worked for -- my first</p> <p>24 premises liability case was in 1991.</p> <p>25 Q I see that.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Okay. Back in the '90s, this -- this</p> <p>2 type of work, particularly in civil cases, was</p> <p>3 there a lot less of it than there is now?</p> <p>4 A Well, I was new at it, so --</p> <p>5 Q Right.</p> <p>6 A -- as far as I'm concerned, you know,</p> <p>7 yes, I have a lot more cases now. I don't know</p> <p>8 if that's the case for everyone, if that's a</p> <p>9 general statement that can be made.</p> <p>10 But for me, yeah. But that makes</p> <p>11 sense because I was, you know, quite young when I</p> <p>12 started out, and I didn't have the experience.</p> <p>13 Q Right.</p> <p>14 Okay. The qualitative side of your</p> <p>15 methodology, you said that involves traveling to</p> <p>16 the site and trying to determine what about the</p> <p>17 physical characteristics of the site might make</p> <p>18 it more susceptible to criminal activity. And</p> <p>19 I'm paraphrasing, but is that --</p> <p>20 A That's correct.</p> <p>21 Q -- essentially what -- what --</p> <p>22 A Essentially that's --</p> <p>23 Q -- you do?</p> <p>24 A -- it.</p> <p>25 Q Okay. And you visited the site in</p>	<p style="text-align: right;">Page 28</p> <p>1 A That's correct.</p> <p>2 Q And they also said your opinions were</p> <p>3 not based on sufficient evidence. Do you recall</p> <p>4 that?</p> <p>5 A I do. My client did not provide me</p> <p>6 with evidence.</p> <p>7 Q Right.</p> <p>8 It looked like you'd only looked at</p> <p>9 some -- I think the police reports and news</p> <p>10 reports and maybe a couple other things. But</p> <p>11 what you're saying is your client, meaning the</p> <p>12 attorneys, didn't give you the materials that you</p> <p>13 would have liked for them to have given you?</p> <p>14 A Right. He had misled me. He told me</p> <p>15 that there was no travel allowed in Puerto Rico</p> <p>16 at the time because of the pandemic; I couldn't</p> <p>17 do a site visit; the police departments were shut</p> <p>18 down; they couldn't provide any information.</p> <p>19 He has quite a reputation, and right</p> <p>20 after the deposition, I terminated the contract.</p> <p>21 Q Gotcha.</p> <p>22 All right. And I saw another one from</p> <p>23 2015 from New Jersey where you were attempting to</p> <p>24 opine regarding sexual harassment policies, and</p> <p>25 the court held that your opinions were not</p>
<p style="text-align: right;">Page 27</p> <p>1 this case; is that right?</p> <p>2 A I did.</p> <p>3 Q One time?</p> <p>4 A I did, yes, one time.</p> <p>5 Q And that was in January of this year?</p> <p>6 A That's correct.</p> <p>7 Q Okay. I found a couple cases that you</p> <p>8 testified in previously where your testimony was</p> <p>9 either limited or excluded. Do you -- do you</p> <p>10 have familiarity with those cases?</p> <p>11 A I do.</p> <p>12 Q Okay. So I think the most recent one</p> <p>13 I found was a 2022 case. I don't know if the</p> <p>14 incident happened in 2022, but at least the</p> <p>15 opinion was in 2022 in Puerto Rico. Do you --</p> <p>16 A That's correct.</p> <p>17 Q -- recall that case?</p> <p>18 A Yes.</p> <p>19 Q That was a convention center shooting</p> <p>20 case?</p> <p>21 A Correct.</p> <p>22 Q Okay. And that court held that you</p> <p>23 weren't qualified to give opinions regarding the</p> <p>24 reasonableness of the security measures at the</p> <p>25 convention center?</p>	<p style="text-align: right;">Page 29</p> <p>1 reliable. Does that sound right?</p> <p>2 A They wanted more of an HR expert, not</p> <p>3 a criminologist, so yeah.</p> <p>4 Q Okay. And then there was a 2014</p> <p>5 opinion from Ohio, a Circle K case. I guess you</p> <p>6 had interviewed the assailant in that case. Does</p> <p>7 that sound right?</p> <p>8 A Yes.</p> <p>9 Q Okay. And then that was part of the</p> <p>10 basis for your I think report or affidavit; is</p> <p>11 that right?</p> <p>12 A Yes.</p> <p>13 Q And they said you couldn't rely on</p> <p>14 hearsay, and because you had relied on hearsay,</p> <p>15 they didn't allow you to opine in that -- in that</p> <p>16 case; is that right?</p> <p>17 A I gave a deposition in that case.</p> <p>18 Q Right.</p> <p>19 But you weren't allowed to testify at</p> <p>20 trial.</p> <p>21 A I believe it settled.</p> <p>22 Q Okay. But you would not have been</p> <p>23 allowed to testify at trial if there had been a</p> <p>24 trial.</p> <p>25 A Well, that -- honestly, this is the</p>

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<p style="text-align: right;">Page 30</p> <p>1 first time I'm hearing about the Circle K case.</p> <p>2 Q Oh.</p> <p>3 A My client didn't tell me that.</p> <p>4 Q Okay. That happens sometimes.</p> <p>5 Okay. But do you remember that? Do</p> <p>6 you remember going to the prison and interviewing</p> <p>7 the assailant and then using that and his</p> <p>8 statements to you as part of either your -- I</p> <p>9 think it was a report or affidavit or both. Do</p> <p>10 you recall that?</p> <p>11 A Yeah. It was a report. And I've</p> <p>12 often interviewed inmates and perpetrators and</p> <p>13 have included that in my reports. This is the</p> <p>14 first time I'm hearing about it being excluded.</p> <p>15 Q Okay. Any others that you recall?</p> <p>16 Any other cases that you recall being excluded or</p> <p>17 limited in?</p> <p>18 A No.</p> <p>19 Q Do you know what the IaaS CP</p> <p>20 methodology is?</p> <p>21 A Yes.</p> <p>22 Q What's that?</p> <p>23 A That's a forensic methodology produced</p> <p>24 by that trade organization.</p> <p>25 Q Did you follow that in this case?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q Are you a consulting expert in a lot</p> <p>2 of those cases?</p> <p>3 A No. I'm an expert witness. I was</p> <p>4 consulting in one of those cases.</p> <p>5 Q Are those all listed on your CV?</p> <p>6 A Yes. Everything's listed on my CV.</p> <p>7 Q Okay. It says Consulting Experience,</p> <p>8 and there's a long list. How far back -- I mean,</p> <p>9 I guess all the '23 and '24 cases, mostly of</p> <p>10 those -- are most of those still active?</p> <p>11 A Oh, yes.</p> <p>12 Q Okay. Are you typically hired by</p> <p>13 plaintiffs or defendants?</p> <p>14 A We're trying to get to 50-50, and</p> <p>15 we're almost there. I was -- when I was younger,</p> <p>16 it was plaintiff. I always said I felt like the</p> <p>17 least popular girl at the defense attorneys' ball</p> <p>18 because I couldn't get defense on.</p> <p>19 Then I started working with my first</p> <p>20 mass shooting case with Kevin Taylor, and then I</p> <p>21 started getting a lot of defense calls. And that</p> <p>22 Kevin Taylor case I think was 2015, so, gosh,</p> <p>23 it's nine years now.</p> <p>24 Q Have you ever opined in a case</p> <p>25 involving a drive-by shooting?</p>
<p style="text-align: right;">Page 31</p> <p>1 A Yes.</p> <p>2 Q Tell me about IaaS CP.</p> <p>3 A Okay. First of all, they talk about</p> <p>4 the quantitative part of the analysis which is</p> <p>5 very similar to what a criminologist would do.</p> <p>6 However, we would limit it to three years, not</p> <p>7 five years, look back for the analysis. And then</p> <p>8 they also recommend a site visit. So it's in</p> <p>9 line with my methodology.</p> <p>10 Q So typically you like to visit the</p> <p>11 sites of criminal incidents; right?</p> <p>12 A It's absolutely necessary. If the</p> <p>13 client doesn't want me to visit the site, I --</p> <p>14 they have to get a different expert.</p> <p>15 Q Okay. And in the Puerto Rico case,</p> <p>16 you did not visit the site; right?</p> <p>17 A No.</p> <p>18 Q Okay.</p> <p>19 A Due to misinformation.</p> <p>20 Q Gotcha.</p> <p>21 How many active cases are you serving</p> <p>22 as an expert witness in, approximately, as we sit</p> <p>23 here today?</p> <p>24 A Today, probably between 60 and 65.</p> <p>25 That's my guess.</p>	<p style="text-align: right;">Page 33</p> <p>1 A No, I don't believe I have.</p> <p>2 Q Okay. So you've never served as an</p> <p>3 expert on behalf of plaintiff or defendant in a</p> <p>4 drive-by shooting case.</p> <p>5 A That's correct.</p> <p>6 Q Okay. This is your first one.</p> <p>7 A That's correct.</p> <p>8 Q You agree this incident that we're</p> <p>9 here about today was a drive-by shooting.</p> <p>10 A Yes.</p> <p>11 Q Okay. You've watched the video of the</p> <p>12 incident?</p> <p>13 A Yes.</p> <p>14 (Whereupon a document was identified</p> <p>15 as Defendant's Exhibit 3.)</p> <p>16 BY MR. DIAL:</p> <p>17 Q Okay. It looks like the last time you</p> <p>18 testified at trial would have been when? 2022?</p> <p>19 Is that -- I was looking at Exhibit 3, which is</p> <p>20 your --</p> <p>21 A Shannon Dugan, yes.</p> <p>22 Q Have you ever testified in a trial in</p> <p>23 the state of Georgia?</p> <p>24 A I don't believe I have.</p> <p>25 Q Approximately how many depositions</p>

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<p style="text-align: right;">Page 34</p> <p>1 have you given in cases pending in either Georgia 2 state or federal court, if you know? 3 A I don't know. 4 Q What's your hourly rate? 5 A 600. 6 Q Okay. I was adding up your invoices. 7 It looked to me like you may have billed over 8 \$70,000 in this case so far. Does that sound 9 about right? 10 A I'm going to say I thought it was less 11 than that. 12 Q Okay. Well, I saw a \$6,000 retainer. 13 And maybe the retainer comes out of future bills. 14 And then there's a \$20,000 invoice and then a 15 \$39,000 invoice and then another invoice for over 16 4 -- between 4 and 5,000. 17 A I don't see the 4 or 5,000 one here -- 18 Q I think that's -- 19 A -- if we have the same one. 20 Q -- June 25th -- 21 A This here? 22 Q -- 2024. Yeah. 23 A Oh, yeah. 24 Q And there's a \$2,100 entry and 1,800. 25 Then --</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Right. 2 A -- I was told the details of the 3 incident, that there was a shooting, there was a 4 drive-by shooting at this location at -- on this 5 certain date. 6 And then I usually go into describing 7 my methodology at that point letting them know 8 that I have done cases similar to this in terms 9 of violent behavior. And then they make a 10 decision whether to retain me or not. I just get 11 the facts of the case, the basic facts. 12 Q Any idea how you were located by 13 Plaintiffs' counsel? 14 A I don't know. I never asked. 15 Q All right. So in this case, just to 16 get -- make sure I have an understanding of what 17 exactly you've done, I guess we already went 18 through it with the quantitative and qualitative 19 part of your methodology. 20 And then as a part of that, you 21 reviewed what, all of the case materials, 22 depositions, documents, things like that? 23 A Correct. 24 Q Does -- a review of depositions and 25 discovery responses and documents produced by the</p>
<p style="text-align: right;">Page 35</p> <p>1 A Oh, yes. Uh-huh. 2 Q Okay. 3 A That's for this -- that's for this 4 deposition. 5 Q Okay. Well, maybe we're paying for 6 that but -- 7 A No. You're paying for the -- the 8 2,400 which has -- 9 Q Yeah, yeah, yeah. I see. 10 A -- still not been received -- 11 Q I see. 12 A -- by the way. 13 Q Oh, it hadn't been? 14 A No. I haven't received -- 15 Q Well -- 16 A -- that. 17 Q -- Lauren and Lee who are on the Zoom 18 were supposed to have paid, so you can blame 19 them. I think it's en route is my understanding. 20 Sorry about that. 21 Okay. So when you were first hired on 22 this case, what exactly were you told about this 23 property and/or the incident? 24 A Well, just -- I'm not going to 25 remember everything, but --</p>	<p style="text-align: right;">Page 37</p> <p>1 parties, is that more of the quantitative side of 2 the methodology, or is that more qualitative, or 3 is it neither? 4 A It's just reviewing of documents, just 5 getting information on the case. You can't call 6 it quantitative because it's not statistical. 7 Q Right. 8 A But, yeah, I don't -- I just consider 9 it part of reviewing the literature in -- in this 10 case, you know, for this particular crime. 11 Q Did you or have you -- I guess you 12 said you reviewed the Plaintiffs' depositions; is 13 that right? 14 A Yes. 15 Q Have you reviewed any criminal or 16 police reports related to their -- their behavior 17 or their issues over the years, meaning all the 18 times they've been arrested and whatnot? Are you 19 familiar with that? 20 A I'm familiar that they were arrested 21 for some drug charges. 22 Q Right. 23 Did you know some of the Plaintiffs 24 have been arrested as recently as April of 2024? 25 Did you know that?</p>

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<p style="text-align: right;">Page 38</p> <p>1 A 20 -- I -- I'm not interested in</p> <p>2 anything that happens after the event.</p> <p>3 Q Okay. Why not?</p> <p>4 A Because it's not getting into</p> <p>5 foreseeability. I'm a foreseeability expert.</p> <p>6 Things that happen after the event don't foresee</p> <p>7 the event.</p> <p>8 Q If you've got a group of guys that</p> <p>9 have a long criminal history, does it make it</p> <p>10 more foreseeable that they're likely to be</p> <p>11 targeted in a shooting?</p> <p>12 A Not necessarily, no. It depends on</p> <p>13 the circumstances.</p> <p>14 Q What circumstances?</p> <p>15 A Oh, it depends -- just because they're</p> <p>16 involved in crime doesn't mean that they're going</p> <p>17 to be shot by another individual. It means that</p> <p>18 they're engaging in risky behavior which is -- I</p> <p>19 guess puts them a little more at risk for</p> <p>20 becoming a victim just as staying out late at</p> <p>21 night puts you at higher risk for becoming a</p> <p>22 victim, just like hanging out with un -- unsavory</p> <p>23 assailants -- or associates might put you at</p> <p>24 higher risk for conviction.</p> <p>25 Q Right.</p>	<p style="text-align: right;">Page 40</p> <p>1 Mr. Sims who's not technically the Plaintiff,</p> <p>2 but for purposes of my question, you can include</p> <p>3 him. Does their criminal history -- did that</p> <p>4 have any impact on your opinions in this case?</p> <p>5 A No. It didn't have any impact on this</p> <p>6 event.</p> <p>7 Q "It didn't have any impact on this</p> <p>8 event." What do you mean by that?</p> <p>9 A On this crime.</p> <p>10 Q How do you know that?</p> <p>11 A How do I know that? How do I -- I</p> <p>12 know -- there's no evidence to suggest that their</p> <p>13 criminal history had anything to do with this</p> <p>14 crime.</p> <p>15 Q Have you read the reports of the</p> <p>16 defense experts in this case?</p> <p>17 A Yes, I have.</p> <p>18 Q You're aware that Detective Belknap</p> <p>19 has issued a report in this case?</p> <p>20 A I'm aware of that report.</p> <p>21 Q I believe as part of that report, he</p> <p>22 has indicated that each of these Plaintiffs</p> <p>23 either were gang members or gang affiliations.</p> <p>24 Is that right?</p> <p>25 A I don't know. I've never read the</p>
<p style="text-align: right;">Page 39</p> <p>1 Okay. So hanging out at night makes</p> <p>2 you more likely to become a victim of a crime --</p> <p>3 A Yes.</p> <p>4 Q -- is that right?</p> <p>5 A Yes.</p> <p>6 Q And associating with people that have</p> <p>7 criminal histories makes you more likely to be</p> <p>8 the victim of a crime?</p> <p>9 A Yes, among other things. Like</p> <p>10 drinking alcohol late at night on college</p> <p>11 campuses and being a male makes you more likely</p> <p>12 to be a victim of a crime.</p> <p>13 Q Okay. And just hanging out in areas</p> <p>14 of town where there's more criminal activity make</p> <p>15 you more likely to be the victim of a crime?</p> <p>16 A Yes.</p> <p>17 Q Okay. I believe at least two of the</p> <p>18 Plaintiffs here have been trespassed from this</p> <p>19 property in the past. Are you aware of that?</p> <p>20 A I'm aware of Kenneth Long.</p> <p>21 Q What about Newton?</p> <p>22 A I'm not aware of that as I sit here</p> <p>23 today.</p> <p>24 Q And so does the criminal history of</p> <p>25 these five Plaintiffs -- and I'm including</p>	<p style="text-align: right;">Page 41</p> <p>1 report. I understand there's some issues with</p> <p>2 that report.</p> <p>3 Q Okay. I thought you said you had read</p> <p>4 all their reports.</p> <p>5 A No. I was aware of the existence of</p> <p>6 the report.</p> <p>7 Q Okay. Have you read Mr. Vellani or</p> <p>8 Mr. Groussman's reports?</p> <p>9 A I have.</p> <p>10 Q Have you read Mr. Vellani's</p> <p>11 deposition?</p> <p>12 A No.</p> <p>13 Q Have you read the deposition of</p> <p>14 Plaintiffs' expert, Mr. Ahmad?</p> <p>15 A No.</p> <p>16 (Whereupon a document was identified</p> <p>17 as Defendant's Exhibit 5.)</p> <p>18 BY MR. DIAL:</p> <p>19 Q Okay. Take a look at your report for</p> <p>20 me.</p> <p>21 All right. You would agree that none</p> <p>22 of the five Plaintiffs were residents of Bedford</p> <p>23 Pines; is that right?</p> <p>24 A Yes, I agree.</p> <p>25 Q Okay. And the shooting happened at</p>

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<p style="text-align: right;">Page 42</p> <p>1 approximately 1:07 a.m.; is that right?</p> <p>2 A Correct.</p> <p>3 Q That's late at night; right?</p> <p>4 A Correct.</p> <p>5 Q And you said it's more likely that</p> <p>6 someone's going to become a victim of crime when</p> <p>7 they're hanging out --</p> <p>8 A I was --</p> <p>9 Q -- late at night?</p> <p>10 A A better way to say that is crime is</p> <p>11 more likely to occur at night.</p> <p>12 Q All right. And in the first</p> <p>13 paragraph, the introduction on page 1 of your</p> <p>14 report, you mention that it was typical for a</p> <p>15 food truck to be parked in the parking lot next</p> <p>16 to a Bedford Pines apartment building. See that?</p> <p>17 A Yes.</p> <p>18 Q Okay. And does -- the existence of</p> <p>19 the food truck, I mean, did that -- did that</p> <p>20 influence your opinions in any way in this case?</p> <p>21 A Yes.</p> <p>22 Q How so?</p> <p>23 A Well, the food truck is what made this</p> <p>24 an attractive target for any potential offender.</p> <p>25 The food truck is what drew the crowd. The crowd</p>	<p style="text-align: right;">Page 44</p> <p>1 that right?</p> <p>2 A It caused a gathering, a social</p> <p>3 gathering, late at night, 1:07 in the morning.</p> <p>4 Q The food truck wasn't there when the</p> <p>5 shooting occurred; right?</p> <p>6 A Right. But there's still people --</p> <p>7 it -- it drew the crowd. That's -- that's what</p> <p>8 I'm trying to get across.</p> <p>9 Q Do you know when the food truck left</p> <p>10 that night?</p> <p>11 A I do not know when it left.</p> <p>12 Q Do you know everybody who was outside</p> <p>13 at the time of this shooting at Bedford Pines?</p> <p>14 A I know the Plaintiffs were outside. I</p> <p>15 don't know of others. I mean, I can't name them.</p> <p>16 Q If you don't know when the food truck</p> <p>17 left, how can you say that it caused a crowd to</p> <p>18 still be gathered at the time of this shooting?</p> <p>19 A I can't remember when the food truck</p> <p>20 left. If I could refer to the deposition, I</p> <p>21 might be able to get -- pique my memory. But the</p> <p>22 crowd was -- was gathered because the food truck</p> <p>23 was there, and the crowd was allowed to exist</p> <p>24 because there was no monitoring of crowds and no</p> <p>25 enforcement of no loitering policies.</p>
<p style="text-align: right;">Page 43</p> <p>1 existed. It was a regular event. There were</p> <p>2 chairs out. Ms. Lewis would pull out a grill.</p> <p>3 It was a social event, and, therefore,</p> <p>4 it created crowds of people which obviously</p> <p>5 attract drive-by shootings.</p> <p>6 Q So crowds of people attract drive-by</p> <p>7 shootings?</p> <p>8 A If you don't have a crowd of people,</p> <p>9 you don't have a drive-by shooting. They would</p> <p>10 just be shooting a building. It's kind --</p> <p>11 Q But you could have drive-by shootings</p> <p>12 without a crowd; right?</p> <p>13 A You can. But it's not as likely. I</p> <p>14 mean, they're shooting at a building. They can</p> <p>15 be shooting at a building at a window in the</p> <p>16 building trying to hit somebody. But if you have</p> <p>17 crowds of people -- it's just like mass shooters.</p> <p>18 You have to have crowds to have a mass shooting.</p> <p>19 Q Right.</p> <p>20 But you can have drive-by shootings</p> <p>21 where somebody shoots into a building or a house;</p> <p>22 right?</p> <p>23 A Yes, you can.</p> <p>24 Q Okay. And in this case, you said that</p> <p>25 the food truck made this an attractive target; is</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Okay. Do you know how long these guys</p> <p>2 had been outside?</p> <p>3 A Anywhere between ten minutes to</p> <p>4 possibly an hour.</p> <p>5 Q And at the time of this shooting, they</p> <p>6 were making the decision to be outside; right?</p> <p>7 Nobody was forcing them to be out there.</p> <p>8 A Nobody was forcing them to be out</p> <p>9 there. However, there was a social gathering.</p> <p>10 Q But they could have gathered inside</p> <p>11 somebody's apartment had they wanted to; right?</p> <p>12 A I suppose so. But this was kind of a</p> <p>13 regular routine, this crowd that was out there.</p> <p>14 Q And you're talking about the five</p> <p>15 Plaintiffs? It was a regular routine for them to</p> <p>16 hang out outside at Bedford Pines?</p> <p>17 A No. I'm talking about the crowds</p> <p>18 gathering as testified to by Wingate employees</p> <p>19 themselves. There was a lot of crowds hanging</p> <p>20 out in the 600 block. That was common.</p> <p>21 Q But Wingate didn't know about the food</p> <p>22 truck; right?</p> <p>23 A Wingate testified they did not know</p> <p>24 about the food truck.</p> <p>25 Q And is there evidence that Wingate</p>

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<p style="text-align: right;">Page 46</p> <p>1 knew that there were crowds gathering at around 2 1 a.m. frequently? 3 A Well, not at 1 a.m. But there was 4 evidence that they knew there were crowds 5 gathering in the 600 block, that that was a 6 problem. 7 Q Was that typically done during the 8 daytime or during office hours? 9 A Was what done? 10 Q The crowds gathering. 11 A The crowds gathering is what I'm 12 getting from testimony from some of the corporate 13 reps, that they knew that there were crowds 14 gathering there in the evenings. 15 Q Do you consider five people outside a 16 crowd? 17 A It isn't -- it's five people, so it's 18 a -- it's a crowd of people. But, again, going 19 back to deposition testimony, this was -- this 20 was something that was mentioned by the corporate 21 reps, that they were aware of crowds and that 22 this was a problem, and that's why they put a no 23 loitering sign up. 24 Q Do you think the police knew about 25 crowds gathering at --</p>	<p style="text-align: right;">Page 48</p> <p>1 previously; right? 2 A Correct. 3 Q So, I mean, to the extent this event 4 is foreseeable as to Wingate, which is your 5 opinion, wouldn't it be also be foreseeable to 6 the Plaintiffs? 7 A Presumably so. 8 Q Okay. When you're doing your 9 analysis, the crime data analysis, in a half mile 10 radius, are you looking to see whether the crimes 11 are interpersonal versus stranger on stranger? 12 A As I said previously, if they're 13 interpersonal -- if they're domestic, they're not 14 counted. They're not included on the map. These 15 are stranger-to-stranger crimes. 16 Q Okay. Can a crime be interpersonal 17 but not be domestic? 18 A We consider anybody who's living 19 together in -- in a relationship to be a domestic 20 situation. 21 Q Okay. But what if somebody's not 22 living together but they just know this other 23 person and they -- they target them for -- 24 A No. That would be included. 25 Q That would be included.</p>
<p style="text-align: right;">Page 47</p> <p>1 A I think they did. 2 Q -- Bedford Pines? 3 Okay. Should they have done anything 4 to try and stop that from occurring? 5 A Police can be effective in these -- in 6 these respects, but they have other areas to 7 patrol obviously. 8 Q All right. So your first opinion is 9 that this was a foreseeable event -- 10 A Correct. 11 Q -- is that right? 12 A Yes. 13 Q You agree that these Plaintiffs were 14 familiar with -- with Bedford Pines; right? 15 A Yes. 16 Q I mean, they had all been hanging out 17 around that property and in that area of town for 18 a long, long time. Fair? 19 A I know they were familiar with the 20 area. 21 Q Okay. And there had been other 22 drive-by shootings in the area? 23 A Yes. In fact, a week before. 24 Q And one of these Plaintiffs had even 25 been shot in a drive-by shooting at Bedford Pines</p>	<p style="text-align: right;">Page 49</p> <p>1 A Yeah. That's not a domestic type of 2 situation. 3 Q So domestic is different from -- so 4 what you're saying is it can be an interpersonal 5 crime -- maybe my use of the word interpersonal 6 is incorrect -- but a crime between people who 7 know each other, but it's not a domestic 8 incident. 9 A Right. Most homicides are people who 10 know each other. 11 Q Right. 12 So that's included in this -- 13 A Oh, of course. Yes. 14 Q -- in these incidents. 15 Okay. Okay. Now, with respect to 16 this half mile radius, you would agree that 17 Wingate cannot control the crime in the area of 18 its property. If it's not on its property, they 19 can't control what's going on, you know, a 20 quarter mile down the road. Fair? 21 A Fair. 22 Q Okay. And Parkway Drive, which is 23 where this incident occurred, that's a public 24 street; right? 25 A Correct.</p>

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<p style="text-align: right;">Page 50</p> <p>1 Q And so anybody in the city of Atlanta</p> <p>2 or really anywhere could drive on that road;</p> <p>3 right?</p> <p>4 A Correct.</p> <p>5 Q Okay. There's nothing Wingate can do</p> <p>6 to prevent that.</p> <p>7 A Correct.</p> <p>8 Q All right. Wingate can't put up</p> <p>9 bulletproof glass along the side of Bedford</p> <p>10 Pines; right?</p> <p>11 A Correct.</p> <p>12 Q Did you look to see of these crimes in</p> <p>13 the half mile radius going back three years --</p> <p>14 did you look to see how many of those crimes</p> <p>15 involved any one of these Plaintiffs?</p> <p>16 A No, I did not.</p> <p>17 Q Okay. If -- if some of those crimes</p> <p>18 did involve these Plaintiffs, then you would</p> <p>19 agree that the Plaintiffs contributed to this --</p> <p>20 to the criminal stats that you've compiled in</p> <p>21 performing your analysis.</p> <p>22 A It's my understanding that they didn't</p> <p>23 commit violent crimes, so they wouldn't be</p> <p>24 included.</p> <p>25 Q Okay. Did you know one of them is</p>	<p style="text-align: right;">Page 52</p> <p>1 at crime.</p> <p>2 Q Right.</p> <p>3 Okay. So if the Plaintiffs were</p> <p>4 involved in prior incidents, that doesn't impact</p> <p>5 your opinion one way or the other.</p> <p>6 A No. And it's my understanding they</p> <p>7 were not. But it wouldn't impact my decision --</p> <p>8 or my analysis. I'm sorry.</p> <p>9 Q Okay. And I'm looking at page 8 of</p> <p>10 your report now, and it says, "Wingate never</p> <p>11 notified residents and guests of the crime</p> <p>12 problem and security risks on the property."</p> <p>13 It's at the bottom of the first full paragraph.</p> <p>14 Do you see that?</p> <p>15 A On page 8?</p> <p>16 Q Yeah. It says page 8 of 42.</p> <p>17 A Okay. "Crime presented" --</p> <p>18 Q But one -- one of your -- I don't know</p> <p>19 if it's an opinion, but one of your statements in</p> <p>20 here is that Wingate never notified residents and</p> <p>21 guests of the crime problem and security risks on</p> <p>22 the property. Is that -- is that your opinion or</p> <p>23 belief?</p> <p>24 A I'm going to find that sentence. And</p> <p>25 I don't see it there. Are you looking at Crime</p>
<p style="text-align: right;">Page 51</p> <p>1 currently under arrest for murder?</p> <p>2 A Well, that's after the incident.</p> <p>3 Q Okay.</p> <p>4 A I don't care about what happens after</p> <p>5 the incident.</p> <p>6 (Connection to Zoom was lost and restored.)</p> <p>7 MR. DIAL: All right. Can -- can</p> <p>8 y'all still hear us?</p> <p>9 MS. WOODRICK: Yeah. The audio made</p> <p>10 a --</p> <p>11 MR. CLAYTON: It went into feedback --</p> <p>12 yeah. It went into like feedback for a second.</p> <p>13 We're fine now.</p> <p>14 MS. WOODRICK: Yeah. It's working</p> <p>15 now.</p> <p>16 BY MR. DIAL:</p> <p>17 Q All right. And so you said it's your</p> <p>18 understanding that none of these Plaintiffs had</p> <p>19 been involved in any violent crimes in the three</p> <p>20 years prior to this incident?</p> <p>21 A I didn't look at them for the three</p> <p>22 years prior. They weren't -- I just -- I do my</p> <p>23 crime analysis. I'm looking at crime, period.</p> <p>24 I'm not looking at who perpetrated the crime or</p> <p>25 who's the victim of the crime. I'm just looking</p>	<p style="text-align: right;">Page 53</p> <p>1 Activity at Bedford Pines and the Surrounding</p> <p>2 Area?</p> <p>3 Q I'm on a different page. It says --</p> <p>4 A That's what I thought.</p> <p>5 Q -- page 8 of 42.</p> <p>6 A Oh, I've got a different -- I've</p> <p>7 got -- page 8 of 42 does not have that statement</p> <p>8 on it.</p> <p>9 Q Oh.</p> <p>10 A But let me look. Is it the one with</p> <p>11 the --</p> <p>12 Q No.</p> <p>13 A -- this graph?</p> <p>14 Q No. The next page.</p> <p>15 A Okay. All right. And which paragraph</p> <p>16 are you --</p> <p>17 Q First full paragraph at the bottom.</p> <p>18 A Right. That's referring to the crime</p> <p>19 problem in the area around Bedford Pines.</p> <p>20 Correct.</p> <p>21 Q Okay. But I thought you were talking</p> <p>22 about the security risks on the property. It</p> <p>23 says, "Wingate never notified residents and</p> <p>24 guests of the crime problem and security risks on</p> <p>25 the property."</p>

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<p style="text-align: right;">Page 54</p> <p>1 A Right.</p> <p>2 Q Okay.</p> <p>3 A As well as the area around.</p> <p>4 Q So we talked a little bit about the</p> <p>5 Plaintiffs' knowledge of -- of the crime</p> <p>6 occurring at the property and in the area. Don't</p> <p>7 you think the residents of Bedford Pines probably</p> <p>8 knew that there was a crime -- that there was</p> <p>9 crime at the property and in the surrounding</p> <p>10 area?</p> <p>11 A I imagine they knew that there were</p> <p>12 some problems related to crime in the surrounding</p> <p>13 area, but they didn't have complete information</p> <p>14 which Wingate did have.</p> <p>15 Q Wingate had complete information?</p> <p>16 A Well, it looks like Wingate developed</p> <p>17 that -- the development -- redevelopment plan.</p> <p>18 Wingate identified the problem area as the 600</p> <p>19 block, referred to as the north block in that</p> <p>20 graph right -- or the figure right next to --</p> <p>21 right below the paragraph we were referring to.</p> <p>22 So Wingate had known some problems to</p> <p>23 identify the hotspots on the property and in the</p> <p>24 neighborhood.</p> <p>25 Q Okay. But fair to say that residents</p>	<p style="text-align: right;">Page 56</p> <p>1 Q Okay. Because the sentence says</p> <p>2 Wingate never notified residents and guests. But</p> <p>3 what you're saying is they -- they should have</p> <p>4 notified residents.</p> <p>5 A Correct.</p> <p>6 Q Okay. And Parkway Drive's not on</p> <p>7 this -- on our property; right?</p> <p>8 A That's correct.</p> <p>9 Q All right. Do you agree that just the</p> <p>10 way this property -- and I do a lot of these</p> <p>11 cases. And the -- the -- the location of this</p> <p>12 property, the fact that it's surrounded by --</p> <p>13 it's surrounded by several public streets; right?</p> <p>14 A Uh-huh. Correct.</p> <p>15 Q That -- does that make it tougher to</p> <p>16 prevent crime just generally speaking if you're</p> <p>17 surrounded by a bunch of public roads?</p> <p>18 A Well, I think all complexes have</p> <p>19 public roads that -- that border them obviously,</p> <p>20 but, yeah, I mean, if there's public roads, you</p> <p>21 have -- you can't control access and --</p> <p>22 Q Right.</p> <p>23 A -- egress. Right.</p> <p>24 Q Yeah.</p> <p>25 We couldn't put a gate up and say, all</p>
<p style="text-align: right;">Page 55</p> <p>1 presumably knew there was certainly some crime</p> <p>2 around the property; right?</p> <p>3 MR. BOUCHARD: Object to --</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. BOUCHARD: -- form.</p> <p>6 BY MR. DIAL:</p> <p>7 Q Have you talked to any residents?</p> <p>8 A No.</p> <p>9 Q You've read some of their depositions.</p> <p>10 A Correct.</p> <p>11 Q What'd they say about the crime either</p> <p>12 at the property or in the surrounding area?</p> <p>13 A The depositions said they were aware</p> <p>14 of crime.</p> <p>15 Q Okay. And obviously these Plaintiffs</p> <p>16 weren't residents. They weren't listed on lease</p> <p>17 agreements; right?</p> <p>18 A That's correct.</p> <p>19 Q Okay. How does a property management</p> <p>20 company -- how would you notify a guest of</p> <p>21 criminal issues that are at the property or in</p> <p>22 the immediate surrounding area?</p> <p>23 A I'm not saying that they could.</p> <p>24 Q Okay.</p> <p>25 A But they could notify the tenants.</p>	<p style="text-align: right;">Page 57</p> <p>1 right, nobody can come on Parkway Drive or</p> <p>2 Boulevard or Ponce or --</p> <p>3 A That's correct.</p> <p>4 Q Okay. Whereas at a private apartment</p> <p>5 complex that's -- obviously there's a public road</p> <p>6 somewhere leading -- accessing the property, but</p> <p>7 at a lot of places, you can restrict access;</p> <p>8 right?</p> <p>9 A That's correct.</p> <p>10 Q Okay. And so from that perspective,</p> <p>11 it does make it more difficult for Wingate to --</p> <p>12 to prevent crime at this property; right?</p> <p>13 A They can't control access.</p> <p>14 Q Right.</p> <p>15 A Correct.</p> <p>16 Q And so people can drive down the road</p> <p>17 and shoot at the property if they want to.</p> <p>18 A Yes.</p> <p>19 Q Okay. You would agree that the police</p> <p>20 would have known about crime occurring either at</p> <p>21 Bedford Pines or in the immediate area; right?</p> <p>22 A Yes, I agree.</p> <p>23 Q Do you think that this shooting was</p> <p>24 foreseeable to the police?</p> <p>25 A I think it was foreseeable to anybody</p>

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<p style="text-align: right;">Page 58</p> <p>1 who was aware of the amount of crime occurring in 2 that 600 block. 3 Q Okay. Do you think the police -- you 4 haven't offered any opinions about the police in 5 this case; right? 6 A No, I have not. 7 Q Do you think the police should have 8 done something differently or -- or acted in a 9 different manner -- 10 A Well -- 11 Q -- with respect to protection of 12 persons at Bedford Pines? 13 A I don't think that they can just 14 station a patrol car there every evening. They 15 have other areas to obviously patrol and protect. 16 Q Okay. And you discussed a couple 17 shootings that happened in the week or so prior 18 to this incident. Obviously the police knew 19 about those shootings as well; right? 20 A Yes. 21 Q And the police -- while you say they 22 couldn't station themselves there, I mean, they 23 had the option of at least doing it, you know, 24 some of the time; right? 25 A Right. And they can drive by more</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. DIAL: 2 Q All right, Dr. Gray. I had asked you 3 whether or not the Plaintiff -- I mean -- the 4 Plaintiffs -- the police would have known about 5 the shootings in the week or so prior to this 6 incident. Obviously they would have known about 7 them; right? They responded. 8 A Right. 9 Q Okay. And I had asked you if the 10 police either should have or could have done 11 something differently, and you had said something 12 like, well, they can't just sit here and 13 basically camp out at -- at our property or along 14 the streets surrounding our property. Do you 15 recall that? 16 A Yes. That's not their practice. 17 Q Okay. But is it your opinion that 18 Wingate should have had somebody stationed at or 19 around their property at all times? 20 A Yes, at that problem property and the 21 600 block that they've identified as a problem. 22 Yeah. That's private property. That is their 23 property. That's not the street, so the police 24 are not obligated to protect private property. 25 They're obligated to control the streets but not</p>
<p style="text-align: right;">Page 59</p> <p>1 frequently. 2 Q Okay. And -- but it's not -- you 3 don't have an opinion that the police were -- 4 were negligent in this case? 5 A No, I don't. 6 Q Okay. You good? We've been going 7 over -- about an hour. You want to take a break? 8 A I'm good. 9 MR. BOUCHARD: I could use a break for 10 the bathroom in a minute, but -- 11 MR. DIAL: Yeah. 12 MR. BOUCHARD: -- whenever -- 13 MR. DIAL: No. We're -- 14 MR. BOUCHARD: Yeah. 15 MR. DIAL: We can take one now. Let's 16 take five -- 17 MR. BOUCHARD: Okay. 18 MR. DIAL: -- or ten minutes. 19 MR. BOUCHARD: Yeah. Thanks. 20 THE VIDEOGRAPHER: The time is 11:02. 21 We are going off the video record. 22 (Proceedings in recess, 11:02 a.m. to 23 11:16 a.m.) 24 THE VIDEOGRAPHER: 11:16. We are back 25 on the video record.</p>	<p style="text-align: right;">Page 61</p> <p>1 private property. 2 Q Okay. So the police are obligated to 3 control the streets, but they -- 4 A Oh, to patrol the streets. 5 Q Okay. And the streets is where this 6 shot was fired from; right? 7 A Well, drive-bys are always fired from 8 the street. 9 Q Okay. And that's the police's 10 responsibility. 11 A Well, that's their jurisdiction. 12 Q Okay. 13 A The crowd was on private property at 14 Wingate. 15 Q Okay. So where is it that you believe 16 Wingate should have had somebody stationed on the 17 night of this shooting? 18 A Well, in the first place, if they'd 19 had patrols, they would have -- the patrol would 20 have seen that there was a truck there creating a 21 crowd which set up the scenario for the drive-by 22 shooting. 23 I know Wingate says they were unaware 24 that there was a truck there. They were unaware 25 because they didn't monitor it. There was nobody</p>

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<p style="text-align: right;">Page 62</p> <p>1 there to -- I understand Ms. Lewis had been going 2 there for approximately two months, May and June, 3 and nobody from Wingate knew it. 4 That's alarming to me, especially in a 5 high crime area, especially in a problem block 6 area. They had cameras that were not monitored. 7 So if they had been aware of this problem 8 occurring, that there were crowds gathering 9 because of a food truck, that there was a party 10 atmosphere, that it was creating an attractive 11 target for a drive-by shooting considering that 12 at least one had occurred the week before and 13 another one was a shooting -- I'm not sure if it 14 was drive-by or on foot -- 15 But, yeah, I think that Wingate had -- 16 it's their private property, and they have a no 17 loitering rule that they were not enforcing. 18 Q Do you think the Plaintiffs in this 19 case were loitering at the time of this shooting? 20 A They were not supposed to be 21 gathering. That's considered loitering in a 22 common area. 23 Q So you do believe the Plaintiffs were 24 loitering -- 25 A Well, I believe --</p>	<p style="text-align: right;">Page 64</p> <p>1 Q Okay. 2 A -- when it could have been -- that 3 could have been a problem that was easily 4 resolved. 5 Q I'm just focused on at the time of 6 this shooting, the Plaintiffs -- the five 7 Plaintiffs were the only people that were 8 outside; is that right? 9 A At that moment -- 10 Q Okay. 11 A -- of the drive-by. 12 (Connection to Zoom was lost and restored.) 13 THE COURT REPORTER: Hold on just one 14 second. Do you want to go off? 15 MR. DIAL: Yeah. We can -- well, 16 they're back now. Hey, y'all are -- all right. 17 Y'all got kicked off again, but we -- we can stay 18 on. 19 BY MR. DIAL: 20 Q All right, Dr. Gray. So at the time 21 of this shooting, the five Plaintiffs were the 22 only people who were outside; is that right? 23 A That's my understanding. 24 Q Okay. And my question is: Do you 25 believe they were loitering at the time of the</p>
<p style="text-align: right;">Page 63</p> <p>1 Q -- when the shooting occurred. 2 A -- everybody who was at that food 3 truck -- there was a rule not to loiter. They 4 had a sign up, but nobody monitored. It's kind 5 of like saying, you know, we have a rule my 6 daughter has to be in at midnight, but I never 7 monitor it. I'm asleep every night by 11. 8 Q Okay. 9 A Doesn't mean that it's enforced. 10 Q Do you believe the Plaintiffs in this 11 case were loitering at the time of the drive-by 12 shooting? 13 A They were gathering. 14 Q Were they loitering? 15 A Well, define -- it depends on how you 16 define "loitering." 17 Q Okay. 18 A But -- so if that was the case -- 19 Q What's your definition? 20 A Loitering is to be on a property 21 that -- to be in a location where you're not 22 supposed to be. But that would also include the 23 food truck and the chairs and the grill and 24 the -- I mean this crowd was permitted to gather 25 for approximately two months --</p>	<p style="text-align: right;">Page 65</p> <p>1 shooting? 2 A They were -- 3 MR. BOUCHARD: Object to form. 4 A -- on the -- 5 THE WITNESS: I'm sorry. 6 MR. BOUCHARD: Go ahead. 7 THE WITNESS: They were on the 8 premises at the time, yes. 9 BY MR. DIAL: 10 Q They were on the premises. They were 11 not residents there -- 12 A Correct. 13 Q -- right? 14 A Correct. 15 Q There were no residents of Bedford 16 Pines outside with the Plaintiffs; right? 17 A At the time of the shooting. 18 Q At the time of the shooting. 19 So, again, my question is: Do you 20 believe they were loitering at the time of the 21 shooting? 22 MR. BOUCHARD: Object to form. 23 THE WITNESS: They were -- again, I'm 24 going to say that they were on the premises, as 25 was the food truck. The food -- I'm sorry, but</p>

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<p style="text-align: right;">Page 66</p> <p>1 that's -- yeah. There were people there and 2 crowds there that were not supposed to be there. 3 They happened to be part of that crowd 4 that gathered there. 5 BY MR. DIAL: 6 Q Okay. But the food truck wasn't there 7 at the time of the shooting, though. 8 A Well, it was there approximately 15 9 minutes prior to the shooting. 10 Q Did you read the food truck driver's 11 deposition? 12 A I did. 13 Q Did you -- do you recall her stating 14 that the reason she left is because it was quiet 15 at the property? 16 A Right. It was getting quieter. The 17 crowd was starting to disperse, but it wasn't 18 completely dispersed. 19 Q Okay. But it was dispersed besides 20 the five Plaintiffs in this case. 21 A Correct. 22 Q So do you have an opinion one way or 23 the other whether they were loitering? 24 A I don't have an opinion on that. 25 Q What's your definition of loitering?</p>	<p style="text-align: right;">Page 68</p> <p>1 A Correct. 2 Q So they were loitering. 3 MR. BOUCHARD: Object to form. 4 BY MR. DIAL: 5 Q I'm not saying Wingate -- whether 6 Wingate allowed it or not. What I'm trying to 7 get you to agree to -- and it sounds like you 8 are -- is that they were loitering at the time of 9 this shooting, the Plaintiffs in this case. 10 MR. BOUCHARD: Object to form. 11 THE WITNESS: They were on the 12 premises when they weren't supposed to be. 13 BY MR. DIAL: 14 Q Okay. And that's what you defined as 15 loitering just a minute ago; right? 16 A To the best of my knowledge, yes. 17 Q Okay. All right. And the food truck 18 driver testified that it was getting quiet, and 19 that's why she decided to leave; right? 20 A Yes. 21 Q Okay. And -- okay. And you said 22 earlier Wingate was I think you said completely 23 aware or fully aware of the crime occurring at 24 its property and in the immediate vicinity. Is 25 that -- is that your opinion?</p>
<p style="text-align: right;">Page 67</p> <p>1 A Being at a location that you're not 2 supposed to be on. 3 Q Okay. 4 A And considering that they were there 5 regularly or the crowds were gathering regularly, 6 then there was -- loitering was tolerated if 7 that's what you're defining loitering as. 8 Q All right. So it sounds like you do 9 believe they were loitering, but what you're 10 saying is Wingate allowed them to loiter. 11 A Correct. They didn't enforce the 12 policy. 13 Q Okay. But they were loitering. The 14 five Plaintiffs in this case were loitering at 15 the time of the shooting. 16 MR. BOUCHARD: Object to form. 17 THE WITNESS: Again, it's definition 18 of what you're saying. 19 BY MR. DIAL: 20 Q Well, they weren't residents there. 21 A Right. 22 Q And they were gathered at the 23 location. 24 A Correct. 25 Q And it was 1 a.m.; right?</p>	<p style="text-align: right;">Page 69</p> <p>1 A Well, based on their redevelopment 2 plan and the map they created, yes -- 3 Q Okay. 4 A -- and deposition testimony, they were 5 aware that crime was a problem. 6 Q One of your opinions in this case -- 7 and we're jumping to your second opinion 8 regarding the -- the security measures in place. 9 You -- you'd indicated that -- that Wingate 10 should have done a crime assessment. You recall 11 that? 12 A Yes. 13 Q Okay. But Wingate had done an 14 analysis -- 15 A That -- 16 Q -- and had information about the crime 17 at the property and in the area and had done an 18 analysis of that crime; right? 19 A Yes. But that's not a formal risk 20 assessment done by a security expert. 21 Q Okay. But -- but you're not saying 22 that Wingate didn't know what was -- what was 23 happening at its property at least with respect 24 to -- to crime; right? 25 A No. Wingate was well aware of the</p>

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<p style="text-align: right;">Page 70</p> <p>1 crime --</p> <p>2 Q Okay.</p> <p>3 A -- that happened on the property.</p> <p>4 Q All right. There's a section in this</p> <p>5 report, and it talked about -- well, before we</p> <p>6 get to that, there's a section called Wingate's</p> <p>7 Awareness of Crime in and Around the Area of</p> <p>8 Bedford Pines.</p> <p>9 And so -- I think you've already told</p> <p>10 me this -- Wingate knew about crime in and around</p> <p>11 the area; right?</p> <p>12 A Yes.</p> <p>13 Q The police knew about crime in and</p> <p>14 around the area of Bedford Pines; right?</p> <p>15 A Correct.</p> <p>16 Q The residents knew about crime in and</p> <p>17 around the area of Bedford Pines; right?</p> <p>18 A Yes.</p> <p>19 Q And the Plaintiffs knew about crime in</p> <p>20 and around the area of Bedford Pines.</p> <p>21 A Presumably, yes.</p> <p>22 Q Okay. And then there's a section in</p> <p>23 here talking about Wingate's lack of awareness as</p> <p>24 to the activities. And is that -- the way I read</p> <p>25 it, it was mainly focused on the food truck.</p>	<p style="text-align: right;">Page 72</p> <p>1 your second opinion that relates to the security</p> <p>2 measures at Bedford Pines. You had mentioned</p> <p>3 earlier the police can't -- I don't know if I</p> <p>4 finished this line of questioning.</p> <p>5 But you said the police can't sit, you</p> <p>6 know, on the public roads around Bedford Pines</p> <p>7 all night because they have to patrol other</p> <p>8 areas. I'm paraphrasing. But is that</p> <p>9 essentially your --</p> <p>10 A Right. It's not --</p> <p>11 Q -- what you said?</p> <p>12 A -- their practice to sit outside a --</p> <p>13 a property.</p> <p>14 Q But you agree that -- that Wingate</p> <p>15 could not have had either private security or the</p> <p>16 police sitting on the public street all night</p> <p>17 either; right?</p> <p>18 A Wingate could have had private</p> <p>19 security.</p> <p>20 Q On its property?</p> <p>21 A On its property.</p> <p>22 Q But not on the public streets.</p> <p>23 A Correct.</p> <p>24 Q Okay. So where do you think Wingate</p> <p>25 should have had private security located on its</p>
<p style="text-align: right;">Page 71</p> <p>1 Right?</p> <p>2 A Yes.</p> <p>3 Q We've talked about --</p> <p>4 A And the crowds --</p> <p>5 Q -- that.</p> <p>6 A -- gathering because of the --</p> <p>7 Q Okay.</p> <p>8 A -- food truck.</p> <p>9 Q Were -- or was the food truck there --</p> <p>10 these two shootings that occurred in the week or</p> <p>11 so prior, was the food truck there when those</p> <p>12 shootings had occurred?</p> <p>13 A I understand that it was not there.</p> <p>14 Q Okay. Was the food truck ever there</p> <p>15 when a shooting occurred at Bedford Pines or near</p> <p>16 Bedford Pines?</p> <p>17 A At the exact time of the shooting?</p> <p>18 Q Yeah.</p> <p>19 A No, not that I know of. But the food</p> <p>20 truck, again, was part of the problem of being a</p> <p>21 gathering place.</p> <p>22 Q I understand.</p> <p>23 A It was basically a restaurant on</p> <p>24 wheels during COVID when restaurants were closed.</p> <p>25 Q Okay. All right. Let's talk about</p>	<p style="text-align: right;">Page 73</p> <p>1 property?</p> <p>2 A Well, they should have had private</p> <p>3 security there in the evening hours. They had --</p> <p>4 Wingate had contracted with the APD to only be</p> <p>5 there during daytime hours. Crime is much more</p> <p>6 likely to occur at night.</p> <p>7 Certainly the crime analysis I -- I</p> <p>8 conducted on Bedford Pines, most of that occurred</p> <p>9 at night. They knew the problem was a nighttime</p> <p>10 problem.</p> <p>11 The police understandably were lacking</p> <p>12 resources during COVID, so what they -- Bedford</p> <p>13 Pines should have done is contract for a private</p> <p>14 security to rove the area at night, be there at</p> <p>15 night.</p> <p>16 If they had such a security patrol,</p> <p>17 they would have learned about the crowd gathering</p> <p>18 outside of the 633 building, the food truck being</p> <p>19 there, the social environment of that location,</p> <p>20 and they could have dispersed those crowds and</p> <p>21 kept a watch on it and told everybody to leave,</p> <p>22 told the food truck to leave, tell them they're</p> <p>23 loitering and they need to get out.</p> <p>24 But there was no -- there was no</p> <p>25 observation of that. There was no private</p>

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<p style="text-align: right;">Page 74</p> <p>1 security. They didn't monitor cameras. They had 2 no way to enforce their own rules because they 3 didn't know what was going on. 4 Q Okay. Other than the food truck, what 5 did Wingate not know about what was going on? 6 A The crowds. They didn't know the 7 crowds were gathering in common areas. In fact, 8 even residents of Wingate say they had no idea 9 they weren't allowed to gather in -- in common 10 areas. So these so-called rules were not 11 dispersed among the residents, and they weren't 12 enforced. 13 Q So -- so you believe private security 14 should have been present at night, not 15 necessarily stationed at any specific part of 16 Bedford Pines, but it should have been somewhere 17 on the property. 18 A Should have been at 633 in the north 19 block area, the hotspot in -- on the property. 20 Q How many security guards do you 21 believe would have been appropriate at Bedford 22 Pines at -- at nighttime? 23 A Well, I'm not a security expert. I'm 24 a foreseeability expert. But I have spoken with 25 a number of offenders that tell me what might</p>	<p style="text-align: right;">Page 76</p> <p>1 there at nighttime; right? 2 A To prevent the crowd from gathering. 3 Q To prevent the crowd. 4 But, again, there was only five people 5 present on the property in the area of this 6 shooting at the time of the shooting; right? 7 A That's a crowd. They've been there 8 between 10 and 60 minutes. That could have been 9 prevented. They could have been dispersed 10 easily. 11 Q They also could have dispersed 12 themselves without somebody telling them to 13 disperse; right? 14 A No. I think that in this case, they 15 needed to be told to disperse. Wingate was well 16 aware of the problem at the 633 block. They had 17 the best information. Perhaps the people who 18 were gathering in the crowd had -- did not have 19 that same information. Clearly they did not. 20 So, yeah, it's -- in my opinion, it 21 was Wingate's responsibility to enforce their own 22 rules against gathering in the common area. 23 Q I'm just saying the Plaintiffs in this 24 case, they had the choice whether to stay outside 25 or go inside or leave the property or go home or</p>
<p style="text-align: right;">Page 75</p> <p>1 displace the crime or make them go somewhere else 2 to commit the crime. 3 And I would suggest at -- at the 4 minimum one, better two. There's always safety 5 in numbers. But at least one. And more 6 importantly, that one person could have kept that 7 crowd from gathering. 8 That's the problem. The crowd was 9 allowed to gather. There were people outside at 10 1:07 a.m. 11 Q Okay. You just said you're not a 12 security expert; right? 13 A No, I'm not. 14 Q Okay. And you didn't create a 15 security plan in this -- in this case; right? 16 A That's correct. 17 Q And you've never created a security 18 plan. 19 A That's correct. 20 Q All right. Have you ever been charged 21 with implementing a security plan that was 22 created by somebody else? 23 A No. 24 Q Okay. All right. So you said there 25 should have been at least one security guard</p>	<p style="text-align: right;">Page 77</p> <p>1 whatever before -- 2 A Of course. 3 Q -- the shooting occurred. 4 A Of course. Everybody has a choice. 5 Q Right. 6 And if there had been a security guard 7 patrolling Bedford Pines, that wouldn't have 8 prevented the shooter in this case from driving 9 down Parkway Drive; right? 10 A It would have prevented him from 11 shooting at people. 12 Q Well, that's speculation, isn't it? 13 A If there's not -- 14 MR. BOUCHARD: Object to form. 15 A -- a crowd, there's not a shooting. 16 It's like mass shootings, as I mentioned -- 17 MR. DIAL: Okay. 18 THE WITNESS: -- earlier. 19 BY MR. DIAL: 20 Q So if the guys would have gone inside, 21 there wouldn't have been a shooting either. 22 A Right. They would have maybe shot at 23 the building, but they wouldn't have shot at a 24 crowd. That's the problem as I see it, is the 25 crowd gathering on a regular basis, a predictable</p>

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<p style="text-align: right;">Page 78</p> <p>1 basis, for offenders to observe and exploit. 2 Q But you keep talking about how the 3 food truck caused the crowds to gather and how 4 the crowds is what made this predictable, but 5 then you also agree that there never was a 6 shooting when the food truck was there; right? 7 MR. BOUCHARD: Object to form. 8 THE WITNESS: Well, I -- the food 9 truck certainly enhanced the gathering of a 10 crowd. Obviously there were other gatherings 11 without the food truck. But this -- 12 MR. DIAL: Right. 13 THE WITNESS: -- this was a common 14 practice at Bedford Pines, people gathering in 15 common areas. Food truck or not, it was a common 16 practice -- 17 MR. DIAL: Okay. 18 THE WITNESS: -- and it shouldn't have 19 been because it's against the rules that were not 20 enforced. 21 BY MR. DIAL: 22 Q Okay. If there had been a security 23 guard there, nothing could have prevented or 24 would have prevented -- definitively prevented 25 somebody from driving down the road and firing a</p>	<p style="text-align: right;">Page 80</p> <p>1 from a drive-by shooting in a high crime 2 neighborhood. 3 Q So Bedford -- Wingate could have 4 prevented this -- this drive-by shooting, but 5 Secret Service couldn't prevent Mr. Trump from 6 being shot. Is that your opinion? 7 A Yes. That's definitely my opinion, 8 just -- 9 Q Okay. 10 A -- as mass shootings are very, very 11 difficult to predict. This was not a 12 difficult-to-predict crime. You had two 13 shootings seven days prior to this crime. 14 It's a high crime area -- it lights up 15 like a Christmas tree on my heat map -- and it's 16 well known to both Wingate and the police 17 department. This has nothing to do with an 18 assassination attempt against Trump. 19 Q Okay. All right. So other than at 20 least one security guard, what else do you think 21 Wingate should have done that it did not do? 22 A I think they should have paid somebody 23 to monitor the cameras on a regular basis, if not 24 nightly, so that they can say, hey, there's a lot 25 of gathering in this location on our property.</p>
<p style="text-align: right;">Page 79</p> <p>1 gun out of a car; right? 2 A No. You can't prevent that, but you 3 can prevent them hitting anybody. 4 Q I mean, they -- they could have shot 5 the security guard. 6 A They can. That is not likely from my 7 experience with criminals, violent offenders. 8 Q Well, Donald Trump just got shot, and 9 the Secret Service was sitting there -- 10 A That's totally -- 11 Q -- when he -- 12 A -- different. That's totally 13 different. That's a ridiculous analogy. 14 Q How is it ridiculous to say that 15 Bedford Pines, if they'd had one security guard 16 there, would have prevented the shooters in this 17 case from firing shots, and then you've got the 18 former president of the United States who was at 19 a rally this weekend and got shot and there were 20 Secret Service agents on a roof right next to 21 him? They couldn't prevent that -- 22 A This -- 23 Q -- did they? 24 A This is a highly motivated political 25 offender. It's a completely different scenario</p>	<p style="text-align: right;">Page 81</p> <p>1 That is very inexpensive. They can do 2 it remotely. They don't have to be there. Just 3 to gather information on where problems are 4 starting to brew, and this could have been 5 avoided, this entire incident. 6 Q How often in these apartment 7 complexes, multifamily housing communities is 8 somebody paid to monitor cameras? How often do 9 you see that? 10 A Well, I don't know how often. But I 11 know in this particular property, it needed to be 12 done. We needed security in the 600 block of 13 Bedford Pines, as indicated by the intense 14 criminal history of that area. 15 Q Okay. So -- so you don't know how 16 often in the multifamily housing industry 17 somebody is paid to monitor security or 18 surveillance cameras? 19 A No, of course not. In general, I 20 don't know that. 21 Q Okay. How many cameras are at Bedford 22 Pines? 23 A I'm not certain right now. 24 Q Have you ever worked in law 25 enforcement?</p>

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<p style="text-align: right;">Page 82</p> <p>1 A No, I have not.</p> <p>2 Q You've never worked as a security</p> <p>3 guard, I presume.</p> <p>4 A No, I have not.</p> <p>5 Q Have you ever monitored cameras?</p> <p>6 A No, I have not.</p> <p>7 Q Okay. So let's see. One or more</p> <p>8 security guards, someone actively monitoring the</p> <p>9 cameras; is that right? That's another thing</p> <p>10 Wingate could have done differently?</p> <p>11 A Yes, someone regularly monitoring the</p> <p>12 cameras.</p> <p>13 Q Would they monitor them all night?</p> <p>14 A No. I'm not saying that.</p> <p>15 Q Would they monitor every camera?</p> <p>16 A I'd say that they need to monitor the</p> <p>17 cameras in the areas they know are gathering</p> <p>18 grounds and hotspots for crime.</p> <p>19 Q Well, isn't the whole area kind of a</p> <p>20 hotspot for crime?</p> <p>21 A No. The area they -- they identified</p> <p>22 as a hotspot, north block --</p> <p>23 Q But you don't know --</p> <p>24 A -- was the main --</p> <p>25 Q -- how many cameras are on that --</p>	<p style="text-align: right;">Page 84</p> <p>1 about the buildings being torn down, and it</p> <p>2 seemed to me like you were implying we should</p> <p>3 have torn down some of these buildings earlier.</p> <p>4 Is that -- is that your opinion?</p> <p>5 A Well, that would be an option. It's</p> <p>6 not necessarily my opinion. My opinion --</p> <p>7 Q Right.</p> <p>8 A -- is you needed to secure the area.</p> <p>9 That area needed more security. Obviously</p> <p>10 tearing down the buildings helped the crime</p> <p>11 problem.</p> <p>12 But you needed to -- and what you're</p> <p>13 doing by tearing down the building is taking away</p> <p>14 an attractive, suitable target. You know about</p> <p>15 routine activity theory. Certainly your --</p> <p>16 Q Right.</p> <p>17 A -- your expert does.</p> <p>18 So you take down the target -- you</p> <p>19 make the target less attractive, you don't</p> <p>20 attract motivated offenders.</p> <p>21 And the third tier of that routine</p> <p>22 activities theory is you have to have capable</p> <p>23 guardians right there present. They didn't have</p> <p>24 capable guardians. They didn't have a security</p> <p>25 guard.</p>
<p style="text-align: right;">Page 83</p> <p>1 that block.</p> <p>2 A I don't know.</p> <p>3 Q So you don't know how many people it</p> <p>4 would have taken to sufficiently monitor the</p> <p>5 cameras in that area.</p> <p>6 A I don't believe it'd take that many</p> <p>7 people to monitor crowds gathering there. You</p> <p>8 could put up one or two cameras. One person</p> <p>9 could monitor one or two cameras on a regular</p> <p>10 basis, not all night long --</p> <p>11 Q All right.</p> <p>12 A -- to keep an eye -- keep a pulse on</p> <p>13 what's happening in that area.</p> <p>14 Q Okay. So one or more security guards,</p> <p>15 actively monitor cameras. What else do you</p> <p>16 believe should have been done differently?</p> <p>17 A More enforcement of the rules</p> <p>18 obviously. Clearly they weren't enforcing the no</p> <p>19 gathering in common areas. So they could have</p> <p>20 done that.</p> <p>21 Q Okay. What else?</p> <p>22 A I believe that would cover it. That</p> <p>23 would have prevented this shooting from</p> <p>24 occurring.</p> <p>25 Q Okay. There was some talk in here</p>	<p style="text-align: right;">Page 85</p> <p>1 They didn't have cameras monitored so</p> <p>2 that they could inform Wingate management, look,</p> <p>3 there's a problem here. They're gathering here</p> <p>4 quite frequently, almost every night. There were</p> <p>5 no capable guardians there.</p> <p>6 Q Now, if you tear down the buildings,</p> <p>7 then people don't have a place to live that were</p> <p>8 living in that building; right?</p> <p>9 A Well, it -- yeah. I'm not here to</p> <p>10 opine on that, on the fairness of that. I'm here</p> <p>11 to opine on how to prevent this particular --</p> <p>12 Q Right.</p> <p>13 A -- drive-by shooting and the</p> <p>14 foreseeability of it.</p> <p>15 Q Do cameras, regardless of whether</p> <p>16 they're being actively monitored or not -- do</p> <p>17 they -- are they typically designed to try and</p> <p>18 deter crime, at least part of their -- their</p> <p>19 function?</p> <p>20 A No, they're not good deterrents.</p> <p>21 Q Okay. Well, what are they good for?</p> <p>22 Catching people after the fact?</p> <p>23 A They're good for that. But if they're</p> <p>24 monitored in real time, you'd be notified of a</p> <p>25 problem brewing or beginning.</p>

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<p style="text-align: right;">Page 86</p> <p>1 Q But a crowd in and of itself is not 2 necessarily a problem. It doesn't necessarily 3 indicate that something bad is about to happen, 4 does it? 5 A It's a problem in that it -- it -- it 6 goes against the rules of Bedford Pines that they 7 proclaim to be enforcing. And crowds do cause 8 problems. You don't -- I mean, this is why 9 people -- neighbors call up and say, hey, there's 10 a crowd gathering outside in the street. They're 11 making noise, getting rowdy. 12 Yeah. 13 Q Certainly you can have crowds that 14 gather and there's not a shooting, though; right? 15 A Yes, you can. But in this 16 neighborhood, this is the type of thing that 17 creates problems and creates crime. This is not 18 your typical neighborhood. 19 Q Have you ever published any writings 20 regarding security measures for multifamily 21 housing communities? 22 A No, I have not. 23 Q Have you ever authored any guidelines 24 for security professionals? 25 A No, I have not.</p>	<p style="text-align: right;">Page 88</p> <p>1 A I did. I went day and night -- 2 Q Did you walk around at night? 3 A -- day and night. I did walk a little 4 bit around at night. 5 Q Probably not for long? 6 A No, not for long. 7 Q Gotcha. 8 Okay. You opined that we should have 9 done a formal crime risk assessment; is that 10 right? 11 A Yeah. I think it would have been a 12 natural thing to do with Dottie Davis since she 13 was there. 14 Q Okay. What do you think that would 15 have changed? 16 A Well, it would have let them have a -- 17 a finer point on their understanding of which 18 areas are most at risk, which are the softest 19 targets on the property. As you know, the 20 property is spread. It's a scattered site 21 property. 22 So, you know, they did know that the 23 600 block was a problem, but she would have been 24 able to give them more information and more 25 importantly recommendations for how to harden</p>
<p style="text-align: right;">Page 87</p> <p>1 Q Okay. So you talk about your site 2 visit here. Tell me what stuck out to you during 3 your site visit about Bedford Pines and the 4 surrounding streets. 5 A Let me get to that area. Basically, 6 you know, I was there, what, three years after 7 the fact, and it is -- you know, I wasn't 8 surprised to see the crime correlates in the 9 area. There were, you know, some boarded-up 10 properties. There were some boarded-up abandoned 11 businesses. And I -- I go into that in my -- in 12 my report. 13 Obviously the 633 block was -- there 14 were a number of buildings demolished, so I could 15 not see it as it was on the night of the 16 incident. That's about it. 17 Q Yeah. 18 So the site's way different now than 19 it used to be -- 20 A It is. 21 Q -- at the time of the shooting. Yeah. 22 A It is. 23 Q Gotcha. 24 And you went there at nighttime, 25 though?</p>	<p style="text-align: right;">Page 89</p> <p>1 that target. 2 Q All right. Have you ever offered an 3 opinion in a case that security was insufficient 4 at a scattered site property prior to this case? 5 A No. 6 Q And you -- you mentioned -- 7 THE WITNESS: What is that? 8 MR. BOUCHARD: It's your watch. 9 THE WITNESS: Oh. 10 BY MR. DIAL: 11 Q -- that we didn't have -- "we" being 12 Wingate didn't have policies and procedures for 13 obtaining incident reports for crimes occurring 14 in the surrounding area of the property. Do you 15 recall that? 16 A I'm sorry. Can you re -- can you ask 17 that again. 18 Q Yeah. 19 You mentioned somewhere in this report 20 that Wingate didn't have any policies or 21 procedures for obtaining incident reports for 22 crimes occurring in the surrounding area. 23 A And internal reports as well. 24 Q Okay. So maybe that's -- that's why I 25 wrote this down. So you're saying we should have</p>

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<p style="text-align: right;">Page 90</p> <p>1 had internal incident reports for crimes that 2 occurred in the area of the property but not on 3 the property? 4 A No. Internal incident reports just 5 are incidents that happen at the property. 6 Q Okay. 7 A I'm trying to find that too. 8 Q So on page -- it's my page 17. It 9 says, "According to Bean, Wingate's policies and 10 procedures regarding incident reporting did not 11 have guidelines for submitting incident reports 12 for crimes occurring in the area surrounding the 13 property." 14 A Right. 15 Q That -- that's not typically done by a 16 property management company, is it? 17 A Well, in this case, I think it could 18 have -- should have been done because they were 19 in a high crime area. 20 Q Right. 21 But typical practice in the industry, 22 if you know -- do you know what the typical 23 practice is in the property management industry 24 regarding when internal incident reports would be 25 created?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q Do you believe off-duty police 2 officers are more effective than private 3 security, or do you know one way or the other? 4 A I think off-duty police officers are 5 effective and probably more effective when they 6 are present. That's the problem. They didn't -- 7 I will agree that APD's off-duty police officers 8 are an excellent source of security, but they 9 weren't always present, so they needed to fill in 10 with private security. 11 Q Are you aware of any private security 12 company who's willing to patrol a property like 13 Bedford Pines that's surrounded by public roads 14 on all -- on all sides? 15 A I can't name one right now, but I'm 16 aware that they exist, absolutely. It's a 17 multibillion dollar business, private security. 18 Q But you -- you can't name any examples 19 as we sit here right now? 20 A There was one. Is it CDI? 21 Q They're willing to patrol property -- 22 a property that's surrounded by public streets? 23 A That's my understanding. 24 Q But you don't have personal knowledge 25 of that?</p>
<p style="text-align: right;">Page 91</p> <p>1 A No. As I said, I'm not an expert in 2 industry standards. 3 Q Okay. So you don't know if property 4 management companies typically create internal 5 incident reports for crimes that occur in the 6 area surrounding the property as opposed to on 7 the property itself. 8 A I'm not an industry expert. 9 Q Okay. And Wingate did -- they did -- 10 or it did hire APD to patrol the property in the 11 area around the property; is that right? 12 A Correct. 13 Q Or at least the property itself. 14 A Correct. 15 Q All right. And there were issues with 16 staffing at APD; is that right? 17 A That's correct. 18 Q Okay. It was still a good thing to -- 19 to hire off-duty police officers; right? I mean, 20 that's -- that's -- that's not a bad thing; 21 right? 22 A No, it's not a bad thing. But I 23 understand there were some problems not only with 24 availability but with the performance of their 25 duties as well.</p>	<p style="text-align: right;">Page 93</p> <p>1 A Well, I've never personally talked to 2 anybody from CDI, but -- but I do know there are 3 private security companies that will do that, 4 will perform that. 5 Q How do you know that? 6 A Because it's a multibillion dollar 7 industry and I've seen them on many other 8 premises. 9 Q But you can't name any of those 10 premises as we sit here? 11 A I'm sorry? 12 Q You can't name any of those 13 premises -- 14 A No, not -- 15 Q -- as we sit here? 16 A -- now. I've been doing this for over 17 30 years, so . . . 18 Q Do you have criticisms of Wingate 19 hiring Plaza Security to manage the APD patrols? 20 A I don't. But I do have criticisms of 21 the way they contracted with them. I think that 22 they should have contracted with them to provide 23 physical security as well when APD was not 24 available. 25 Q Was Plaza able -- would they have been</p>

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<p style="text-align: right;">Page 94</p> <p>1 able to do that?</p> <p>2 A It's my understanding that they did</p> <p>3 have guards that they -- they could use.</p> <p>4 Q Okay. All right. So you said one or</p> <p>5 more security guards, actively monitor the</p> <p>6 cameras, and we should have enforced our rules.</p> <p>7 What other things do you think Wingate should</p> <p>8 have been doing?</p> <p>9 A I think they should have warned the</p> <p>10 residents as well of the crimes that were</p> <p>11 occurring on the property in real time so that</p> <p>12 they can have -- I mean, while -- as you said</p> <p>13 earlier, they were probably aware of crime -- a</p> <p>14 crime problem there.</p> <p>15 They weren't aware of the extent of it</p> <p>16 as much as Wingate was. Wingate had much better</p> <p>17 information on that and could have been warning</p> <p>18 the residents regarding that. And, again, with a</p> <p>19 patrol, they could have been breaking up these</p> <p>20 crowd gatherings and thereby warning guests.</p> <p>21 Q Okay. And how do you warn your</p> <p>22 residents about crime at a property?</p> <p>23 A Well, email --</p> <p>24 Q What's the best way to do that?</p> <p>25 A -- blasts, notification through having</p>	<p style="text-align: right;">Page 96</p> <p>1 Q Are larger properties generally</p> <p>2 speaking more difficult to patrol than -- than</p> <p>3 smaller properties?</p> <p>4 A I -- I'm not an expert in that.</p> <p>5 Q Okay. No opinion one way or the</p> <p>6 other?</p> <p>7 A No opinion.</p> <p>8 Q Okay. Anything else you think Wingate</p> <p>9 should have done differently?</p> <p>10 A No. I think if they had done those</p> <p>11 four things, I believe, that they could have</p> <p>12 prevented this shooting from occurring.</p> <p>13 Q Do you believe that APD officers had</p> <p>14 more knowledge of crime in the area than Wingate?</p> <p>15 A No. I'm not saying that.</p> <p>16 Q You're saying they didn't have --</p> <p>17 A I don't know.</p> <p>18 Q You don't know. Okay.</p> <p>19 Okay. Anything else -- and if it was,</p> <p>20 you know, Dr. Gray's ideal security measures,</p> <p>21 anything else you think should have been done</p> <p>22 differently or should have been done that was not</p> <p>23 done?</p> <p>24 A No. I think we covered it.</p> <p>25 MR. DIAL: Okay. Let me take a break</p>
<p style="text-align: right;">Page 95</p> <p>1 a patrol -- a guard walking around saying, hey,</p> <p>2 you know, there's been problems here. You</p> <p>3 probably shouldn't be hanging out here. It's</p> <p>4 against the rules to be hanging out in this</p> <p>5 common area, that type of thing.</p> <p>6 You know that -- I mean, obviously</p> <p>7 rules were not being followed, so you have to</p> <p>8 come up with a way to enforce them. So notify</p> <p>9 them of the rules; remind them that there's crime</p> <p>10 out there; have a roving guard especially staying</p> <p>11 around the high problematic areas, high crime</p> <p>12 problematic areas on the property; and reminding</p> <p>13 them of the rules; as well as dispersing any</p> <p>14 crowds.</p> <p>15 Q You've never worked for a property</p> <p>16 management company; is that right?</p> <p>17 A That's correct.</p> <p>18 Q So you've never notified residents at</p> <p>19 a property about crime that had occurred there?</p> <p>20 A No. That's not my job.</p> <p>21 Q So I'm right? My question --</p> <p>22 A Yes, you're correct.</p> <p>23 Q Okay. Do you believe Bedford Pines</p> <p>24 was a large property?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 97</p> <p>1 for -- let's take five or ten, and then we'll</p> <p>2 keep -- keep asking you some -- some more</p> <p>3 questions. Okay?</p> <p>4 THE WITNESS: Okay.</p> <p>5 THE VIDEOGRAPHER: The time is 11:55.</p> <p>6 We are going off the video record.</p> <p>7 (Proceedings in recess, 11:55 a.m. to</p> <p>8 12:09 p.m.)</p> <p>9 THE VIDEOGRAPHER: 12:08 -- 12:09. We</p> <p>10 are back on video record.</p> <p>11 BY MR. DIAL:</p> <p>12 Q All right, Dr. Gray. I don't have a</p> <p>13 whole lot longer. The longer I practice law,</p> <p>14 I've learned the shorter my depositions get.</p> <p>15 Sometimes for the better. Sometimes for the</p> <p>16 worse. But we'll find out down the road.</p> <p>17 You're not a gang expert, are you?</p> <p>18 A No. But I taught sociology of gangs</p> <p>19 for probably a decade at Ohio State.</p> <p>20 Q Okay. I had mentioned earlier the</p> <p>21 Trump shooting, and you mentioned that the</p> <p>22 shooter was a highly motivated individual because</p> <p>23 of political reasons, something like that. Do</p> <p>24 you remember that?</p> <p>25 A Yes. I'm assuming that.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q Right.</p> <p>2 A I don't have direct information on</p> <p>3 that, but I -- I think he's as highly motivated</p> <p>4 as, say, a mass shooter.</p> <p>5 Q Okay. And I think I asked you this.</p> <p>6 Were you aware that at least I think three of</p> <p>7 these Plaintiffs have been convicted of gang</p> <p>8 crimes in the past? Did you know that?</p> <p>9 A I know --</p> <p>10 MR. BOUCHARD: Object to form.</p> <p>11 THE WITNESS: I mean, I know that they</p> <p>12 had been convicted of drug dealing, but I'm not</p> <p>13 sure of their gang affiliations. I think that's</p> <p>14 something I need to look at the police file for,</p> <p>15 and I haven't been able to. That's not been</p> <p>16 provided to me.</p> <p>17 BY MR. DIAL:</p> <p>18 Q Okay. Are gang members generally</p> <p>19 speaking highly motivated offenders?</p> <p>20 A No, not generally, not -- not in the</p> <p>21 same way that mass shooters are or the example of</p> <p>22 Trump's assailant.</p> <p>23 Q Okay. So if these guys either were</p> <p>24 gang members -- these guys, the Plaintiffs, were</p> <p>25 affiliated with gangs, in your opinion -- do you</p>	<p style="text-align: right;">Page 100</p> <p>1 to be targeted?</p> <p>2 A Right.</p> <p>3 Q If they're standing outside, couldn't</p> <p>4 that make them available to be targeted?</p> <p>5 A Yes, it does.</p> <p>6 Q Okay.</p> <p>7 A But that doesn't have anything to do</p> <p>8 with gang members. Anybody standing outside at</p> <p>9 that location is more likely to become a victim</p> <p>10 of crime than somebody standing outside in a</p> <p>11 different location, say, the suburbs.</p> <p>12 Q Well, who's more likely to be</p> <p>13 targeted, somebody who's no affiliation or</p> <p>14 association with gangs who's standing outside at</p> <p>15 1 a.m. or someone who either is a gang member or</p> <p>16 has affiliations with gangs that's standing</p> <p>17 outside at 1 a.m.?</p> <p>18 MR. BOUCHARD: Object to form.</p> <p>19 BY MR. DIAL:</p> <p>20 Q Do you have an opinion on that?</p> <p>21 A Well, I think anybody standing outside</p> <p>22 at that location is more likely to become a</p> <p>23 victim of crime at that time of night.</p> <p>24 Q Okay. But what if they're also a gang</p> <p>25 member or have gang affiliations?</p>
<p style="text-align: right;">Page 99</p> <p>1 have an opinion one way or the other whether that</p> <p>2 makes it more likely or less likely that they</p> <p>3 would be targeted in a shooting?</p> <p>4 A Well, I don't know -- I think that's</p> <p>5 all speculation, and so, you know, I need to know</p> <p>6 a little more information than that.</p> <p>7 Q What's speculation?</p> <p>8 A That they're gang members.</p> <p>9 Q Okay. Well, if they are -- if they</p> <p>10 either are gang members or they're affiliated</p> <p>11 with gangs -- just assume that for this --</p> <p>12 purposes of this question -- would that make them</p> <p>13 more likely to be targeted?</p> <p>14 A I guess --</p> <p>15 MR. BOUCHARD: Object to form.</p> <p>16 A -- it depends on the circumstances.</p> <p>17 BY MR. DIAL:</p> <p>18 Q What circumstances?</p> <p>19 A Well, circumstances of how available</p> <p>20 they are for being targeted. And, you know,</p> <p>21 again, I am not here to analyze the crime of the</p> <p>22 drive-by shooting. I'm here to analyze the</p> <p>23 location of this drive-by shooting.</p> <p>24 Q So you said one of the circumstances</p> <p>25 that it would depend on is how available they are</p>	<p style="text-align: right;">Page 101</p> <p>1 A Well, I don't think that really plays</p> <p>2 into it. If I were hanging out with gang</p> <p>3 members, I'd be just as likely to be hit as they</p> <p>4 would. So it's the location that's the problem,</p> <p>5 that's what I'm trying to say, not the victims,</p> <p>6 not the Plaintiffs.</p> <p>7 It's not -- it's not the type of crime</p> <p>8 that I'm analyzing or the victims or the</p> <p>9 perpetrators. I'm analyzing the location, the</p> <p>10 location at which this crime took place, and that</p> <p>11 is why I'm saying it was quite foreseeable this</p> <p>12 was going to take place because it had previously</p> <p>13 to that two times in the week before.</p> <p>14 Q Right.</p> <p>15 Okay. So you don't have an opinion</p> <p>16 one way or the other whether gang members or</p> <p>17 affiliates are more likely to be targeted than</p> <p>18 people who have no gang affiliations or</p> <p>19 memberships?</p> <p>20 MR. BOUCHARD: Object to form.</p> <p>21 THE WITNESS: Not the way you state</p> <p>22 it, no. Not in this location. Not under these</p> <p>23 circumstances.</p> <p>24 BY MR. DIAL:</p> <p>25 Q What's your basis for saying that?</p>

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<p style="text-align: right;">Page 102</p> <p>1 A Again, I'm -- I'm analyzing just 2 location. That location was a high risk location 3 for anyone to be a victim of a crime. 4 Q Okay. And we know these Plaintiffs 5 frequently hung out there; right? 6 A I don't know if they frequently hung 7 out there. I know they were invited that night 8 by tenants of Bedford Pines. I know that they 9 were guests -- 10 Q Did you read their -- 11 A -- of tenants. 12 Q Did you read their depositions? 13 A I did. 14 Q It's pretty well established they were 15 frequently at this property; right? 16 A They had friends there. They're 17 familiar with the area. 18 Q I mean, some of them even stayed there 19 at certain points in time; right? 20 A Correct. 21 Q Okay. So you're not opining that they 22 didn't have familiarity with this property; 23 right? 24 A No, I'm not opining that at all. 25 Q They clearly did.</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. DIAL: 2 Q Okay. So you said -- you said you're 3 not a gang expert; right? 4 A I'm not a gang expert. I'm familiar 5 with gang structure and gang behavior. 6 Q Okay. So tell me about what -- what 7 you know about gang structure and behavior. 8 A Well, for one thing, there's always 9 leadership. There are gang members, and there 10 are gang affiliates. There's different levels of 11 membership, for example. So like when you were 12 saying, oh, if you're an affiliate, are you more 13 likely to be targeted, you know, those are 14 different levels of -- of the organizational 15 chart, if you will. 16 I know that gangs -- while there are 17 problems between gangs, there's also 18 understandings between gangs. They can't just be 19 shooting up everybody for -- for whatever reason. 20 They have a type of society that is very similar 21 to legitimate society with respect to leadership, 22 boundaries, territories, understandings. 23 Q What is generally the purpose of a -- 24 of a gang? 25 A Gangs -- for one thing, it's a feeling</p>
<p style="text-align: right;">Page 103</p> <p>1 A They -- they knew the neighborhood, 2 yes. 3 Q All right. So whether they were gang 4 members or not, they would have known that there 5 was crime in and around that property; right? 6 A I'm sorry. Can you say that again. 7 Q There was -- they would have known 8 there was crime in and around that property 9 regardless of whether they had gang affiliations 10 or not. 11 A To a degree. 12 MR. BOUCHARD: Object to form. 13 THE WITNESS: I can't speculate on 14 what they knew. I don't know what was in the 15 mind of each of these Plaintiffs. But in 16 general, I think people understood that crimes 17 took place here because they took place so 18 frequently. 19 BY MR. DIAL: 20 Q Right. 21 And so anybody hanging out there 22 frequently would presumably know that. 23 A Presumably. 24 MR. BOUCHARD: Object to form. 25 ---</p>	<p style="text-align: right;">Page 105</p> <p>1 of belonging. Oftentimes you find them in 2 economically depressed areas because it's also a 3 way of making money through illegitimate means 4 but a way of making money. 5 Q Do gangs frequently commit crimes to 6 make money? 7 A Yes. They can deal drugs, for 8 example. Yes. They're called criminal gangs. 9 Q Right. 10 A We teach it in criminology, so yes. 11 Q All right. Is it fair to say that 12 crime tends to be more present around gangs than 13 the general population? 14 A Can you say that a different way. I'm 15 not sure what you're getting at. 16 Q If you are either in a gang or hanging 17 out with gang members, are you more likely to be 18 around crime than if you're not in a gang or 19 affiliated with gang members? 20 A Yes. 21 Q Okay. I think you said earlier that 22 this shooting -- I think it's one of your 23 opinions, or maybe it's not directly an opinion, 24 but I think you said earlier that the shooting 25 more likely than not would not have occurred if</p>

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<p style="text-align: right;">Page 106</p> <p>1 we had a guard present the night of the shooting?</p> <p>2 A Correct, a guard present to disperse</p> <p>3 the crowd and enforce the rules.</p> <p>4 Q What's your basis for saying that?</p> <p>5 A Again, to -- routine activities</p> <p>6 theory -- to try to take the suitable target</p> <p>7 away.</p> <p>8 Q Okay. And that assumes that if a</p> <p>9 guard was there and a crowd was there, which I</p> <p>10 think we can debate -- but doesn't that assume</p> <p>11 that the guard would have been able to get the</p> <p>12 crowd to disperse?</p> <p>13 A Yes.</p> <p>14 Q Well, what if the guard goes up to</p> <p>15 these guys and he says, guys, y'all got to go</p> <p>16 home, and they say, too bad; I'm not going</p> <p>17 anywhere?</p> <p>18 A Then the guard can call for Atlanta</p> <p>19 police.</p> <p>20 Q Okay.</p> <p>21 A And the guard can notify Wingate.</p> <p>22 Q Well, Wingate doesn't have anyone</p> <p>23 on-site.</p> <p>24 A Exactly. That's the problem.</p> <p>25 Q Well, I mean, the property management</p>	<p style="text-align: right;">Page 108</p> <p>1 particular location.</p> <p>2 Q Do we have a suitable -- I mean a</p> <p>3 motivated offender in this case?</p> <p>4 A Well, obviously we did. Somebody</p> <p>5 drove by and started shooting out the window. So</p> <p>6 there's a motivated offender.</p> <p>7 Q So --</p> <p>8 A That's somebody --</p> <p>9 Q So we have a motivated offender.</p> <p>10 These guys were suitable targets; right?</p> <p>11 A Well, the crowd was a suitable target.</p> <p>12 If the guys hadn't been out there, there would</p> <p>13 have been no target.</p> <p>14 Q Okay. But they -- the shooter still</p> <p>15 could have driven by and shot onto the property</p> <p>16 whether there were people --</p> <p>17 A Sure.</p> <p>18 Q -- outside or not.</p> <p>19 A Sure. Could have shot a building.</p> <p>20 Q Yeah. Okay.</p> <p>21 A And according to Tate, there -- people</p> <p>22 shoot -- what did he say? Like half a dozen</p> <p>23 times a week, people are driving by shooting out</p> <p>24 their window.</p> <p>25 Q All right. Okay. So motivated</p>
<p style="text-align: right;">Page 107</p> <p>1 team doesn't typically work --</p> <p>2 A But the guard can call --</p> <p>3 Q -- after 5 or 6:00.</p> <p>4 A -- one of them in this case that</p> <p>5 there's -- hey, there's a crime that's likely</p> <p>6 happened here; I can't get this crowd to leave;</p> <p>7 call the police.</p> <p>8 Number of things he can do.</p> <p>9 Q Okay. But how do we know the police</p> <p>10 would have responded and made the crowd disperse?</p> <p>11 A Well, we don't know their response</p> <p>12 time. But at the very least, he could have asked</p> <p>13 them to leave. He could have notified them he's</p> <p>14 calling police. He could have notified Wingate</p> <p>15 so that they understand there's a problem here.</p> <p>16 He could have asked for names. He</p> <p>17 could have done anything to make them</p> <p>18 uncomfortable. That is a capable guardian, and</p> <p>19 that is part of routine activities theory.</p> <p>20 There's only three parts to that theory, and --</p> <p>21 Q Which are what?</p> <p>22 A Which are -- first of all, you need a</p> <p>23 motivated offender. Secondly, you need a</p> <p>24 suitable or attractive target. And, thirdly, you</p> <p>25 need guardians there to try to protect this</p>	<p style="text-align: right;">Page 109</p> <p>1 offender, suitable targets. What was the third?</p> <p>2 A Presence of guardians, guardians of</p> <p>3 the property. That's what a security guard would</p> <p>4 have been. That's what monitoring the cameras</p> <p>5 could have given them, some information.</p> <p>6 Q And if there had been a guard at the</p> <p>7 property, do you believe that guard should have</p> <p>8 done roving patrols or should have been stationed</p> <p>9 in one area?</p> <p>10 A Stationed in the problem area, in the</p> <p>11 633 area --</p> <p>12 Q Okay.</p> <p>13 A -- the 600 block.</p> <p>14 Q Wasn't there more than one problem</p> <p>15 area, though?</p> <p>16 A No, not the red one. The red one is</p> <p>17 on page 9 of my report. It might be 8 of yours.</p> <p>18 That's what Wingate themselves identified as the</p> <p>19 problem area, the north block.</p> <p>20 Q Okay. So where along that block would</p> <p>21 you have had the guard stationed?</p> <p>22 A Well, if the guard had been in that</p> <p>23 area, he would have seen the crowd gathering or</p> <p>24 the food truck and would have stayed there. And</p> <p>25 obviously the 600 block is -- testimony from</p>

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<p style="text-align: right;">Page 110</p> <p>1 several people including Wingate corporate 2 representatives that that was the area that was 3 the problem area, the 600 block. So that's where 4 you place your resources. 5 Q Okay. But if there's a guard there, 6 doesn't your opinion assume that the motivated 7 offender in this case would have known that the 8 guard was there? 9 A Well, I understand that the car drove 10 through once and then came back and did the 11 shooting. So the first time the car came 12 through, they might have noticed a guardian 13 there. 14 Q They might not have noticed that, 15 though; right? 16 A Well, we're both speculating here. 17 Q Okay. 18 A But my experience talking to criminals 19 about what might deter them or displace the crime 20 from that location tells me they pay attention to 21 security guards. They don't want eyes on them. 22 And there are other places -- even if 23 it's motivated or not, there are -- they would 24 take their -- they would leave the premises and 25 find another way to accomplish that crime, but</p>	<p style="text-align: right;">Page 112</p> <p>1 crowd. 2 Q And you're saying five people is a 3 crowd, or you're saying that -- that the crowd 4 had dispersed by the time of the shooting? I'm 5 still not -- 6 A Well, five people -- 7 Q -- really clear. 8 A -- constitute a crowd, a group. It's 9 a group of people which is a crowd. 10 Q Okay. And if the guard said, y'all 11 got to leave, and they didn't leave, then he 12 should call the police or Wingate. 13 A Of course. 14 Q Who at -- 15 A Yes. 16 Q -- Wingate would they call? 17 A I would say the property manager. 18 Q Okay. And at 1 a.m., what if the 19 property manager doesn't answer? 20 A Well, they'd call the police. I 21 mean -- and certainly they would notify the 22 property manager the next day, hey, I tried to 23 call you. There was a problem on-site. 24 I mean, this is a high crime area. 25 It's a very --</p>
<p style="text-align: right;">Page 111</p> <p>1 not there and not then. 2 Q Okay. So these guys could have 3 committed the same crime just elsewhere. 4 A Exactly. 5 Q Okay. 6 A I mean, there's a big difference 7 between deterrence and displacement; right? 8 Deterrence means, oh, they're going to make a 9 decision I'm not going to commit this crime, 10 period. 11 Displacement is let's find a better 12 location that's less risky. 13 Q So you would just have a guard sitting 14 on the sidewalk along Parkway Drive? 15 A Well, I would have him walking up and 16 down the -- 17 Q Okay. 18 A -- sidewalk on Parkway Drive. 19 Q All right. But not on Boulevard. 20 A No. I would put it at the area that's 21 a hotspot for Bedford Pines which is 600 block. 22 And certainly when the guard is there, he's going 23 to see, ah, there's a problem here, there's a 24 food truck, there's a party, there's a grill, 25 there are chairs set out, and disperse that</p>	<p style="text-align: right;">Page 113</p> <p>1 Q By the next day, the shooting's 2 already happened. 3 A Well, I'm saying previous to that, 4 there was a shooting that happened there a week 5 prior with the food truck there too. So, yes, 6 you needed guards there to be able to notify 7 Wingate, look, there's a problem here. They're 8 always gathering here. There's this food truck 9 lady. We need to ask her not to park here. It's 10 problem enough without crowds gathering. 11 That's just good security. 12 Q Okay. So the basis for you saying 13 that the shooting likely -- more likely than not 14 would not have occurred if we had a guard there 15 at night is based on the routine activity theory? 16 A Part of it is, yes. That's the basis 17 for it. Absolutely. 18 Q Anything else? 19 A My interviews with criminals. 20 Q But you didn't interview these 21 criminals because we don't know who they were; 22 right? 23 A That's correct. 24 Q Okay. So we can't say what they would 25 have said if you interviewed them about whether</p>

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<p style="text-align: right;">Page 114</p> <p>1 they would have been deterred from --</p> <p>2 A No. I'm just saying --</p> <p>3 Q -- acting --</p> <p>4 A -- in general --</p> <p>5 Q -- in this manner if -- if there had</p> <p>6 been a guard there.</p> <p>7 A Based on my interviews of over 600</p> <p>8 criminal offenders, I can say that this is --</p> <p>9 works as a deterrent for a crime at that location</p> <p>10 at that time.</p> <p>11 Q Okay. And, again, that assumes they</p> <p>12 knew -- would have known that there was a guard</p> <p>13 present; right?</p> <p>14 A Correct. But they did a drive through</p> <p>15 before they did the drive-by.</p> <p>16 Q Did the Plaintiffs see the car drive</p> <p>17 by the first time?</p> <p>18 A I can't remember at this point.</p> <p>19 Q Does that matter?</p> <p>20 A No.</p> <p>21 Q Why not?</p> <p>22 A Well, because I don't know if they'd</p> <p>23 identified -- it was just a car. That's not</p> <p>24 going to give them any information on what's</p> <p>25 about to happen. It's going to give the</p>	<p style="text-align: right;">Page 116</p> <p>1 It's just kind of a -- a second tier</p> <p>2 effort to control crowds and gatherings which</p> <p>3 creates situations for crime.</p> <p>4 Q Okay. Does the fact that some of</p> <p>5 these guys had been trespassed previously impact</p> <p>6 your opinions at all?</p> <p>7 A No.</p> <p>8 Q Is trespassing people from a property</p> <p>9 typically an effective security measure?</p> <p>10 A I'm sorry. Can you say that again.</p> <p>11 Q Is trespassing people from a property</p> <p>12 typically an effective security measure?</p> <p>13 A It can be.</p> <p>14 Q Okay. And a couple of these guys had</p> <p>15 been trespassed previously, yet they were still</p> <p>16 there the night of the shooting; right?</p> <p>17 A Because they had nobody to monitor the</p> <p>18 area.</p> <p>19 Q Well, what -- at what point is it</p> <p>20 these Plaintiffs' fault for -- for heeding the</p> <p>21 rules of the law?</p> <p>22 MR. BOUCHARD: Object to form.</p> <p>23 THE WITNESS: I don't think the</p> <p>24 victims are at fault. They were at --</p> <p>25 MR. DIAL: But they were --</p>
<p style="text-align: right;">Page 115</p> <p>1 perpetrators information on how soft the target</p> <p>2 is.</p> <p>3 Q Okay. And then the camera monitoring,</p> <p>4 you mentioned that, if we'd have been live</p> <p>5 monitoring cameras. How -- how do you think that</p> <p>6 could have changed what occurred? Who -- who</p> <p>7 would the person monitoring the camera have</p> <p>8 contacted about --</p> <p>9 A Ideally --</p> <p>10 Q -- whatever they were seeing?</p> <p>11 A -- the security guard.</p> <p>12 Q The guard --</p> <p>13 A Right.</p> <p>14 Q -- that you think should have been</p> <p>15 stationed there?</p> <p>16 A Right.</p> <p>17 Q But what would they contact them for?</p> <p>18 If the guard was there, they would know what's --</p> <p>19 A If the guard was there, they would --</p> <p>20 again, I'm saying that they didn't need to</p> <p>21 monitor those cameras all night long every night,</p> <p>22 but sporadically -- you know, you could even set</p> <p>23 it up to the hours that's most likely crowds to</p> <p>24 gather, say, around 11:00, to check the cameras,</p> <p>25 make sure there are no crowds.</p>	<p style="text-align: right;">Page 117</p> <p>1 THE WITNESS: -- a gathering.</p> <p>2 BY MR. DIAL:</p> <p>3 Q I mean, they were trespassing, at</p> <p>4 least a couple of them, and they were loitering,</p> <p>5 and they were there late at night, and they knew</p> <p>6 about crime in the area, but they have no fault?</p> <p>7 A Well, they were --</p> <p>8 MR. BOUCHARD: Object to form.</p> <p>9 A -- invited to the area by guests.</p> <p>10 They had been regularly going there. They</p> <p>11 understood that the rules were not serious or</p> <p>12 possibly not enforced.</p> <p>13 It's kind of like, you know, again</p> <p>14 going back to the curfew analogy. You know, if I</p> <p>15 say you have to be home by 12 and my daughter</p> <p>16 isn't home by 12 and then she gets home at 12:30</p> <p>17 and I just go, eh, that's okay or I start going</p> <p>18 to bed at 11 because I assume she'll be home at</p> <p>19 12 --</p> <p>20 I mean, you have to enforce the rules.</p> <p>21 And so they -- they'd been there plenty of times</p> <p>22 before and didn't run into any problems. That</p> <p>23 sets up a situation that can end up as -- as this</p> <p>24 particular problem.</p> <p>25 That fed into creating the situation,</p>

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<p style="text-align: right;">Page 118</p> <p>1 the suitable target with crowds gathering, no 2 enforcement of the rules. People don't take 3 these things seriously. 4 BY MR. DIAL: 5 Q Okay. But, I mean, these guys knew 6 they were breaking the rules; right? 7 MR. BOUCHARD: Object to form. 8 THE WITNESS: I haven't talked to 9 them. 10 BY MR. DIAL: 11 Q Well, they knew they -- 12 A I haven't -- 13 Q -- had been trespassed. 14 A Well, I haven't -- 15 MR. BOUCHARD: Object to form. 16 A -- talked to them, and I haven't been 17 asked to opine on what the victims knew or did 18 not know. I'm asked to opine on the 19 foreseeability of this crime occurring at this 20 location. 21 BY MR. DIAL: 22 Q All right. You also opined on the 23 security measures in addition to the 24 foreseeability. 25 A From the viewpoint of criminals, not</p>	<p style="text-align: right;">Page 120</p> <p>1 A I can't remember. I can look up my 2 data from many years ago. But it's possible. 3 Q But you don't know as we -- as we sit 4 here right now -- 5 A No. I don't have a -- 6 Q -- you don't -- 7 A -- list of all my interviewees. 8 Q Do gang members typically react 9 differently to security measures than other 10 criminals that are not gang members? 11 A No, especially gang members have 12 leadership, so they have a little more control 13 over decision-making rationality. You don't rise 14 to be a leader of a gang by being stupid. 15 Q So what are you saying, that gang 16 members tend to follow -- if there's security 17 measures in place, they'll -- they're less likely 18 to commit a crime than -- 19 A No. They're smart enough -- I think 20 they're more likely to calculate risk more 21 appropriately because they have internal 22 structure, they're cohesive, they have a leader 23 who's capable and can make determinations about 24 what's safe and where's safe to commit a crime 25 and get away with it. They're not doing this to</p>
<p style="text-align: right;">Page 119</p> <p>1 as a security industry expert. 2 Q Say that again. 3 A I -- as I explained earlier, I can 4 tell you how criminals view security measures. I 5 cannot tell you how security measures measure up 6 to industry standards. I'm not an expert in 7 that. 8 Q Okay. So you're not opining that 9 Wingate breached the standard of care with 10 respect to its security measures in this case. 11 A No. I'm not a security expert. 12 I'm say -- I'm -- I'm opining on what -- how a 13 criminal reacts to security measures and what 14 could have deterred them or displaced this crime 15 to another location and time. 16 Q Okay. But you're just talking 17 generally because we don't know who the criminals 18 were in this case -- 19 A Right. I'm talking -- 20 Q -- right? 21 A -- based on my 600 interviews with 22 criminals. 23 Q Any of those criminals you've 24 interviewed in the past, were any of those people 25 or any of those criminals gang members?</p>	<p style="text-align: right;">Page 121</p> <p>1 get caught. 2 Q Okay. So -- all right. So gang 3 members -- if these were gang members -- say that 4 again. I'm not following you. 5 A I'm saying gang members may have more 6 insight because they have a strong leader and 7 structure in decision-making about -- you know, 8 you have -- the leader's the shot caller. He's 9 going to -- he's going to decide where and when 10 you're going to commit a crime, if he's -- if 11 these perpetrators were either -- even gang 12 members. 13 I have no idea if they were or not. 14 Q Right. 15 A But this is a hypothetical. You're 16 asking me a question. As a professor of gangs, 17 that's what I would say. 18 Q Okay. But you don't recall whether 19 you've ever interviewed a gang member as part of 20 your work in the past? 21 A Sitting here today, no, I can't 22 remember. But I could find out. 23 Q Okay. Are gang members more likely to 24 be targeted victims of crime than non-gang 25 members --</p>

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<p style="text-align: right;">Page 122</p> <p>1 MR. BOUCHARD: Object to form. 2 BY MR. DIAL: 3 Q -- if you know? 4 A Well, gang membership can be risky, 5 but so can many other things. So, yeah, I mean, 6 it's like college campuses are risky areas. 7 Being -- being in a gang is a risky behavior. 8 That doesn't mean you're going to get shot. 9 Q So if we asked these guys to disperse 10 and they walk off into the road, then what else 11 could Wingate have done at that point? 12 A Well, that gets them off their 13 property. 14 Q Okay. I mean, so if these guys 15 crossed Parkway and they're no longer on our 16 property, at that point, there's not much else we 17 can do. 18 A That's correct. 19 Q Okay. And in that scenario, if they 20 had stayed across the street from the property, 21 in theory, the shooters could have driven by and 22 still shot them; right? 23 A Yes. I assume that could happen in 24 theory. 25 Q Or if they had walked up the road,</p>	<p style="text-align: right;">Page 124</p> <p>1 Q But the shots were not fired on their 2 property; right? 3 A They originated from a gun in the 4 street, but they were fired onto the property. 5 Q Is the -- 6 A The bullets ended up at the property. 7 Q Right. 8 But the criminal act here is the shots 9 being fired; right? 10 A Well, it depends on how you want to 11 define it. The criminal act is killing somebody. 12 That's a criminal act. That's murder. That's 13 homicide. 14 Q Right. 15 A And aggravated assault for the others. 16 Q Okay. And the shots were fired off 17 the property which led to -- 18 A Yes. Yes. 19 Q Those were -- 20 A I mean, the gun was on the street. 21 MR. DIAL: Okay. All right. Let me 22 take a look at my notes. I think I'm pretty 23 much done. But can we just take a few minutes? 24 THE WITNESS: Sure. 25 MR. BOUCHARD: Sure.</p>
<p style="text-align: right;">Page 123</p> <p>1 they still would be suitable targets; right? 2 A Right. 3 MR. BOUCHARD: Object to form. 4 THE WITNESS: I mean, that's what I 5 mean by displacing the crime. Wingate would have 6 successfully displaced the crime off their 7 property. 8 BY MR. DIAL: 9 Q Off of their property but not 10 necessarily displaced the crime. 11 A Right. No. They would have displaced 12 the crime from occurring on their property. 13 Q Right. 14 A So they're displacing the crime. 15 They're not deterring the crime. 16 Q Okay. 17 A As I said, there's a difference 18 between deterrence and displacement. 19 Q Okay. So if Wingate tells these guys 20 to leave and they leave, they're not necessarily 21 dispersing -- or they're not necessarily going to 22 prevent the crime from occurring, but they're 23 going to prevent it from occurring I guess where 24 it happened. 25 A On their property. That's correct.</p>	<p style="text-align: right;">Page 125</p> <p>1 THE VIDEOGRAPHER: The time is 12:35. 2 We are going off video record. 3 (Proceedings in recess, 12:35 p.m. to 4 12:36 p.m.) 5 THE VIDEOGRAPHER: 12:36. We are back 6 on video record. 7 BY MR. DIAL: 8 Q All right. Just a couple more 9 questions, Dr. Gray. Have you ever done any work 10 to assess the preventability of drive-by 11 shootings? 12 A No. 13 Q Do you agree that drive-by shootings 14 are more difficult to prevent than other types of 15 shootings? 16 A It depends on the circumstances. 17 Q Okay. What circumstances? 18 A Well, for example, this drive-by 19 shooting, I don't think it began with the bullets 20 coming out of the gun. I think it began with the 21 creation of the crowd of people, the social event 22 that was occurring at that location at that time 23 that evening. 24 It unfolded into a situation that 25 provided a suitable target for a drive-by</p>

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<p style="text-align: right;">Page 126</p> <p>1 shooting. So is it easy to prevent? Yeah. Try 2 not to have a crowd of people in a high crime 3 area late at night at 1:07 in the morning just 4 hanging out violating house rules of the 5 apartment complex. Again, you take away the 6 target, you take away the crime. 7 Q Okay. But the target was created by 8 the Plaintiffs' decision to stand outside on 9 Bedford Pines' property; right? 10 A Well -- I'm sorry. Say that again. 11 MR. DIAL: Can you read it back. 12 (Whereupon the court reporter read back the 13 referred-to portion as follows:) 14 Q But the target was created by the 15 Plaintiffs' decision to stand outside on Bedford 16 Pines' property . . . 17 (Whereupon the reading back was concluded.) 18 THE WITNESS: I would say that's not 19 correct. The target was created by this 20 happening on a regular basis and Wingate not 21 taking any efforts or making any efforts to keep 22 the crowd from gathering. 23 BY MR. DIAL: 24 Q Okay. But at the end of the day, the 25 Plaintiffs made the decision to stand outside on</p>	<p style="text-align: right;">Page 128</p> <p>1 all around the property; right? 2 A Correct. 3 Q You've never seen that done, I assume. 4 A No. 5 MR. DIAL: Okay. All right. I think 6 that's all -- all the questions I have. 7 MR. BOUCHARD: Thank you. 8 MR. DIAL: Got anything? 9 MR. BOUCHARD: No. 10 THE VIDEOGRAPHER: Anybody on Zoom? 11 MR. BOUCHARD: No. No. We're all 12 set. Thank you. 13 THE VIDEOGRAPHER: This concludes the 14 deposition. The time is 12:40. We are going off 15 the video record. 16 THE COURT REPORTER: Would you like to 17 order a copy of the transcript? 18 MR. BOUCHARD: Yes. Thank you. 19 MR. DIAL: You can send ours to 20 Lauren. 21 (Proceedings adjourned, 12:40 p.m.) 22 23 24 25</p>
<p style="text-align: right;">Page 127</p> <p>1 this particular night at 1:00 in the morning; 2 right? 3 A Correct. 4 Q Okay. And, again, whether they were 5 outside or not, I mean, you still can have 6 drive-by shootings without people outside. 7 A Correct. 8 Q Okay. 9 A It's not as likely. They tend to 10 drive by and shoot crowds of people because 11 that's generally a target of a shooting, is a 12 person, not a building. 13 Q And the actual shots that were fired, 14 that happened in a matter of seconds; right? 15 A Correct. 16 Q All right. And Wingate couldn't 17 prevent the shooters from driving down Parkway 18 Drive; right? 19 A Correct. It's a public street. 20 Q And Wingate couldn't prevent -- once 21 the shots were fired, there's nothing they could 22 do to prevent the bullets from flying onto their 23 property; right? 24 A Correct. 25 Q They can't put up bulletproof glass</p>	<p style="text-align: right;">Page 129</p> <p>1 The following reporter and firm disclosures were presented at this proceeding for 2 review by counsel: 3 REPORTER DISCLOSURES 4 The following representations and disclosures are made in compliance with Georgia 5 Law, more specifically: Article 10(B) of the Rules and Regulations of the 6 Board Of Court Reporting (disclosure forms) OCGA 9-11-28(c) (disqualification of reporter 7 for financial interest) OCGA 15-14-37(a) and (b) (prohibitions against 8 contracts except on a case-by-case basis). - I am a certified reporter in the State of 9 Georgia. - I am a subcontractor for Veritext Legal 10 Solutions. - I have been assigned to make a complete and 11 accurate record of these proceedings. - I have no relationship of interest in the 12 matter on which I am about to report which would disqualify me from making a verbatim 13 record or maintaining my obligation of impartiality in compliance with the Code of 14 Professional Ethics. - I have no direct contract with any party in 15 this action and my compensation is determined solely by the terms of my subcontractor 16 agreement. 17 FIRM DISCLOSURES 18 - Veritext Legal Solutions was contacted to provide reporting services by the noticing or 19 taking attorney in this matter. - There is no agreement in place that is 20 prohibited by OCGA 15-14-37(a) and (b). Any case-specific discounts are automatically 21 applied to all parties, at such time as any party receives a discount. 22 - Transcripts: The transcript of this proceeding as produced will be a true, correct, and 23 complete record of the colloquies, questions, and answers as submitted by the certified court 24 reporter. - Exhibits: No changes will be made to the 25 exhibits as submitted by the reporter, attorneys, or witnesses.</p>

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<p>Page 130</p> <p>1 - Password-Protected Access: Transcripts and exhibits relating to this proceeding will be</p> <p>2 uploaded to a password-protected repository, to which all ordering parties will have access</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 132</p> <p>1 court.</p> <p>2 This the 30th day of July, 2024.</p> <p>3</p> <p>4 <i>Jennifer D. Hamon</i></p> <p>5 Jennifer D. Hamon, CCR B-2287, RPR</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 131</p> <p>1 CERTIFICATE</p> <p>2 STATE OF GEORGIA:</p> <p>3 COUNTY OF COBB:</p> <p>4 I hereby certify that the foregoing</p> <p>5 transcript was taken down, as stated in the</p> <p>6 caption, and the colloquies, questions and</p> <p>7 answers were reduced to typewriting under my</p> <p>8 direction; that the transcript is a true and</p> <p>9 correct record of the evidence given upon said</p> <p>10 proceeding.</p> <p>11 I further certify that I am not a</p> <p>12 relative or employee or attorney of any party,</p> <p>13 nor am I financially interested in the outcome of</p> <p>14 this action.</p> <p>15 I have no relationship of interest in</p> <p>16 this matter which would disqualify me from</p> <p>17 maintaining my obligation of impartiality in</p> <p>18 compliance with the Code of Professional Ethics.</p> <p>19 I have no direct contract with any party</p> <p>20 in this action and my compensation is based</p> <p>21 solely on the terms of my subcontractor</p> <p>22 agreement.</p> <p>23 Nothing in the arrangements made for</p> <p>24 this proceeding impacts my absolute commitment to</p> <p>25 serve all parties as an impartial officer of the</p>	<p>Page 133</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>JANE KAREN GRAY, Ph.D.:</p> <p>2</p> <p>I, the undersigned, do hereby certify that I have</p> <p>3 read the transcript of my testimony, and that</p> <p>4 ___ There are no changes noted.</p> <p>5 ___ The following changes are noted:</p> <p>6 Pursuant to Rule 30(7)(e) of the Federal Rules of</p> <p>Civil Procedure and/or OCGA 9-11-30(e), any</p> <p>7 changes in form or substance which you desire to</p> <p>make to your testimony shall be entered upon the</p> <p>8 deposition with a statement of the reasons given</p> <p>for making them. To assist you in making any</p> <p>9 such corrections, please use the form below. If</p> <p>additional pages are necessary, please furnish</p> <p>10 same and attach.</p> <p>11</p> <p>Page ___ Line ___</p> <p>12 Change _____</p> <p>13 _____</p> <p>14 Reason for</p> <p>change _____</p> <p>15</p> <p>Page ___ Line ___</p> <p>16 Change _____</p> <p>17 _____</p> <p>18 Reason for</p> <p>change _____</p> <p>19</p> <p>Page ___ Line ___</p> <p>20 change _____</p> <p>21 _____</p> <p>22 Reason for</p> <p>change _____</p> <p>23</p> <p>24</p> <p>25</p>

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Georgia Code

Title 9, Chapter 11

Article 5, Section 9-11-30

(e) Review by witness; changes; signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by paragraph (1) of subsection (f) of this Code section whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed. If the deposition is not reviewed and signed by the witness within 30 days of its submission to him or her, the officer shall sign it and state on the record that the deposition was not reviewed and signed by the deponent within 30 days. The deposition may then be used as fully as though signed unless, on a motion to suppress under paragraph (4) of subsection (d) of Code

Section 9-11-32, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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